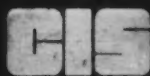


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STATE ENERGY EFFICIENCY PROGRAMS IMPROVEMENT
ACT OF 1989

1990.
JANUARY 10, 1988. — Ordered to be printed

Filed, under authority of the order of the Senate of November 22 (legislative day,
November 6), 1989

Mr. JOHNSTON, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany S. 247]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 247) to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "State Energy Efficiency Programs Improvement Act of 1989".

SEC. 2. TABLE OF CONTENTS.

- Sec. 1. Short Title.
- Sec. 2. Table of Contents.
- Sec. 3. State Energy Conservation Goals.
- Sec. 4. Required State Energy Conservation Plan Elements and Consolidation of Energy Extension Service.
- Sec. 5. Optional State Energy Conservation Plan Elements and Consolidation of Supplemental State Energy Conservation Plan.
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- Sec. 7. State Energy Advisory Board.
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- Sec. 10. Support for Technology Applications.
- Sec. 11. Authorizations of Appropriations.
- Sec. 12. Territorial Energy Assistance Program.

SEC. 3. STATE ENERGY CONSERVATION GOALS.

Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"Sec. 364. Effective October 1, 1990, each State energy conservation plan with respect to which financial assistance is made available by the Secretary under this part shall contain an energy efficiency goal, and may contain interim goals, for such State, which, as a result of the implementation of such plan, shall achieve at least a 10 percent improvement in the efficiency of use of energy supplies consumed in such State in the year 2000 compared to the projected energy consumption, as of October 1, 1990, for such State in the year 2000. The plan shall specify the assumptions used by the State in the determination of its projected energy supplies and demands taking into account population trends, economic growth, and the effects of Federal, State, and local energy efficiency programs."

SEC. 4. REQUIRED STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF ENERGY EXTENSION SERVICE.

(a) IN GENERAL.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of State and Local Assistance Programs of the Department of Energy as of December 31, 1987, and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services;

"(7) in accordance with subsection (f), programs to implement all the functions of the Energy Extension Service, as provided by law on the day before the date of enactment of the State Energy Efficiency Programs Improvement Act of 1989; and

"(8) in a supplementary contingency plan, energy emergency policies and procedures to deal with energy supply disruptions including petroleum products, electricity, natural gas, coal, and other energy supply and delivery disruptions."

(b) ENERGY EXTENSION SERVICE.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

"(f) The programs to implement all the functions of the Energy Extension Service, as provided for by subsection (c)(7), shall—

"(1) include programs for identification, development, and demonstration of energy efficiency opportunities, techniques, methods, materials, and equipment (including those that are responsive to local needs or resources) and alternative energy technologies such as solar heating and cooling for agricultural, commercial, and small business operations, individual energy consumers, and new and existing residential, commercial, and agricultural buildings or structures;

"(2) provide for technical assistance, instructions, information dissemination, and practical demonstrations with respect to energy efficiency opportunities;

"(3) provide, to the maximum extent practicable within personnel and funding limitations, active outreach energy extension assistance (including information on end-user technology requirements) at the local level through appropriate offices (including metropolitan offices) and through county agents and technical staff assistance;

"(4) make maximum use of existing outreach or delivery mechanisms or programs and include, to the maximum extent practicable, any State, local, university, college, or other organization's programs for energy information, education, or technology transfer which have activities or purposes similar to those of this part; and

"(5) establish and implement policies and procedures designed to assure that assistance provided under this part does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but instead supplements such funds and increases the expenditure of such State or local funds to the maximum extent practicable."

(c) **ELIMINATION OF ENERGY EXTENSION SERVICE.**—The National Energy Extension Service Act (title V of Public Law 95-39) is repealed.

SEC. 5. OPTIONAL STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN.

(a) **GENERAL.**—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) by striking paragraphs (3), (4) and (5);

(2) by adding at the end thereof the following new paragraphs:

“(3) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

“(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures;

“(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

“(4) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxis, mass transit and privately owned vehicles;

“(5) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

“(6) programs to promote the adoption of integrated energy plans which provide for—

“(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

“(B) utilization of reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

“(7) programs to promote energy efficiency in residential housing, such as—

“(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

“(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

“(8) programs to protect consumers from any unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures;

“(9) programs to promote energy efficiency as an integral component of economic development programs conducted by State, local or other governmental entities, and energy utilities;

“(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

“(11) programs to encourage integrated energy and environmental planning by other State, county, and local governmental agencies and authorities, including regulatory authorities with jurisdiction over energy utilities;

“(12) in accordance with subsection (g), programs to implement the function of the Energy Technology and Engineering Services Program; and

“(13) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.”.

(b) **ENERGY TECHNOLOGY AND ENGINEERING SERVICES PROGRAM.**—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

“(g)(1) The purposes of this subsection are to—

“(A) strengthen State outreach programs to aid small and start-up businesses;

“(B) foster a broader application of engineering principles and techniques to energy technology product development, manufacturing, and commercial production by small and start-up businesses; and

“(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

“(2) The programs to implement the functions of the Energy Technology and Engineering Services program, as provided for by subsection (d)(12), shall—

"(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

"(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

"(C) establish an Energy Technology and Engineering Services program affiliated with an existing entity in each State;

"(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

"(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology development and commercialization; and

"(F) facilitate contract research between university faculty and students and small and start-up businesses, in order to improve energy technology product development and independent quality control testing.

"(3) Each State energy technology and engineering service program shall develop and maintain a data base of engineering and scientific experts in energy technology development and commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

"(4) The services provided by the energy technology and engineering services program established under this section shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors including (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

"(5) For the purposes of this subsection, the term—

"(A) 'institution of higher education' has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(B) 'small business' means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy;

"(C) 'start-up business' means a small business which has been in existence for 5 years or less."

(c) AMENDMENTS TO DEFINITIONS.—Section 366(4) of the energy Policy and Conservation Act is amended—

(1) by striking "building or industrial" and inserting in lieu thereof "building, building system, energy consuming device associated with the building, or industrial"; and

(2) by striking "the date of enactment of the Energy Conservation and Production Act" and inserting in lieu thereof "May 1, 1989".

(d) ELIMINATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS.—Section 367 of the Energy Policy and Conservation Act (42 U.S.C. 6327) is repealed.

SEC. 6. ADDITIONAL CONDITIONS FOR FEDERAL ASSISTANCE.

(a) Section 363(b) of the Energy Policy and Conservation Act (42 U.S.C. 6323(b)) is amended by adding new paragraphs (4) and (5) as follows:

"(4) In fiscal years 1991 and 1992, the percentage of available Federal financial assistance provided a State under this part shall be equal to the percentage the State received in fiscal year 1990 of the aggregate financial assistance by all States under this part and under section 506 of the National Energy Extension Service Act (42 U.S.C. 7005(i))."

"(5) The Secretary shall by rule establish the formula for the allocations of financial assistance after fiscal year 1992 on the basis of population and other factors the secretary deems appropriate."

(b) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsections:

"(d) In order for any State energy conservation plan to be eligible for Federal assistance under this section, the State must submit to the Secretary a supplementary contingency plan pursuant to section 362(c)(8) governing energy emergencies within such State. The contingency plan shall include an implementation strategy or strategies (including regional coordination) for dealing with such energy emergencies. The submission of such plan to the Secretary shall be for informational purposes only.

"(e) The Secretary shall establish policies and procedures designed to assure that Federal financial assistance under this part, the Weatherization Assistance for Low-Income Persons program under part A of Title IV of the Energy Conservation and Production Act (42 U.S.C. 6861, et seq.), and the Energy Conservation Program for Schools and Hospitals under part G of this Act (42 U.S.C. 6371, et seq.), will be used only to supplement, and not be used to supplant, State and local, and, to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b)."

SEC. 7. STATE ENERGY ADVISORY BOARD.

Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end the following:

"(g)(1) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board') which shall consist of not less than 18 nor more than 21 members appointed by the Secretary. Not less than eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to Section 362. Not less than four members shall be directors of State or local Low Income Weatherization Assistance Programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs for the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, or research institutions. A majority of the members of the State Energy Advisory Board shall be State employees.

"(2) The Board shall—

"(A) make recommendations with respect to the energy efficiency objectives of the programs carried out under part G of this title, and under part A of title IV of the Energy Conservation and Production Act to the Assistant Secretary for Conservation and Renewable Energy, the Director of the Office of State and Local Assistance Programs, and the Director of the Building and Community Systems Office within the Department of Energy;

"(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs;

"(C) recommend changes to State and Federal energy policies;

"(D) review State energy conservation plans and the implementation of State energy conservation programs for the purpose of making recommendations to the Secretary regarding programmatic and administrative policies designed to strengthen the programs and improve their effectiveness;

"(E) review implementation by the States, of the Low-Income Weatherization Program and evaluate the performance of such States for the purpose of making recommendations to the Secretary regarding programmatic and administrative policies designed to strengthen the programs and improve their effectiveness, including actions that should be considered to provide non-Federal resources, including private resources, to supplement Federal financial assistance; and

"(F) encourage technology transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resources.

"(3) The Secretary shall designate one member to serve as its chairman, one member to serve as its vice-chairman, and one member to serve as its secretary, who shall serve in those offices no longer than two years.

"(4) The Secretary shall provide the Board with such services and facilities as may be necessary for the performance of its functions.

"(5) The Board shall be nonpartisan.

"(6) The Board may adopt administrative rules and procedures.

"(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

"(8) The Board shall meet at least three times per year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including any recommendations it may have for administrative or legislative changes."

SEC. 8. UPDATE OF ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.

(a) NON-FEDERAL SHARE OF A PROJECT.—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1)) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation

project may be provided by using programs of innovative financing for energy conservation projects, including loan programs and performance contracting even if clear title to the equipment does not pass to the school or hospital until after the grant is completed."

(b) **AMENDMENTS TO DEFINITIONS.**—

(1) Section 391(1) of such Act (42 U.S.C. 6371(8)) is amended by striking out "April 20, 1977" and inserting in lieu thereof "May 1, 1989".

(2) Section 391(8) of such Act (42 U.S.C. 6371(8)) is amended by inserting the words "administrative facilities," after the word "dormitories,".

(c) **ADDITIONAL LIMITATION.**—Redesignate section 396(d) of such Act as subsection (d)(1) and add the following new paragraphs (2) and (3):

"(2) A State may utilize up to 100 percent of the funds provided under this part for technical assistance, except that—

"(A) not more than 15 percent of the aggregate funds used by the State to provide technical assistance and for implementation of energy conservation measures pursuant to schools and hospitals programs may be expended for such technical assistance; and

"(B) administration of schools and hospitals activities by such State shall be in accordance with applicable regulations.

"(3)(A) If (i) a State has adopted a State plan in accordance with section 394, the administration of which is in accordance with applicable regulations, and (ii) the State annually certifies to the Secretary that the Federal funds expended for schools and hospitals activities for such State are less than 15 percent of the aggregate funds used by the State for implementation of energy conservation measures pursuant to the schools and hospitals programs, then—

"(B)(i) the limitations of paragraph (2) shall not apply to the State schools and hospitals programs under this part, (ii) the State may utilize up to 100 percent of the funds provided under this part for program and technical assistance and up to 50 percent of the funds provided under this part for marketing and other costs associated with leveraging of other non-Federal funds for technical assistance and energy conservation measures under this program, and (iii) the state may administer a continuous and consecutive application and award procedure for providing technical assistance under this part, in accordance with regulations established by the Secretary for this purpose."

(d) **Repeal of Educational Agency Exclusion.**—Section 396(e) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(e)) is repealed.

SEC. 9. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.

(a) **COOLING WEATHERIZATION MATERIALS.**—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended by deleting "and" at the end of subparagraph (F), redesignating subparagraph (G) as subparagraph (H), and adding the following new subparagraph:

"(G)(i) subject to clause (ii), cooling efficiency modifications including, but not limited to, replacement air conditioners, ventilation equipment, screening, window films, and shading devices; and

"(ii) the Secretary shall establish criteria for use by States to determine cooling efficiency modifications that qualify for financial assistance as consistent with the purposes of this part; and"

(b) Section 413(b)(2) of such act is amended by—

(1) deleting "and" at the end of paragraph (A);

(2) amending paragraph (B) to read as follows:

"(B) provide guidance to the States in the implementation of this part, including guidance designed to insure that a State establishes (i) procedures to assure that tenants paying for energy as a portion of their rent shall enjoy the protection that paragraph (5) provides, and (ii) a process for monitoring compliance with its obligations pursuant to this part, and"

(3) adding a new paragraph (C) as follows:

"(C) designed to (i) secure the purposes of the Federal investment pursuant to this part, and (ii) address the issues of eviction and sale."

(c) Section 413(b) of such Act is amended by adding new paragraphs as follows:

"(5) Where the dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall insure that—

"(A) the benefits of weatherization assistance in connection with such leased units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

"(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed; and

"(C) no undue or excessive enhancement will occur to the value of such dwelling units.

"(6) The regulation promulgated pursuant to paragraph (2) shall authorize states to require financial participation from owners of multi-family buildings where weatherization services are being provided."

(d) REVISION OF ALLOCATION FORMULA.—Section 414 of the Energy Conservation and Production Act is amended—

(1) by adding at the end of subparagraph (C) of subsection (a) before the period, "and their potential for energy savings";

(2) by redesignating existing subparagraph (D) as subparagraph (E) and inserting a new subparagraph (D) as follows:

"(D) The cost of heating and cooling."

(3) by adding a new subsection (c) as follows:

"(c) Effective fiscal year 1991, and annually thereafter, the Secretary shall update the population climatic, residential energy use, and all other data used in allocating the funds of the Low-Income Weatherization Assistance Program among the States pursuant to section 414(a). Thereafter, the Secretary shall update these data with the most current data available no less than once every year."

(e)(1) WAIVER OF LIMITATIONS.—Redesignate subsection (a) of section 415 of the Energy Conservation and Production Act (42 U.S.C. 6865(a)) as paragraph (2) and insert after "Sec. 415." and before the redesignated paragraph a paragraph (a)(1), as follows:

"(a)(1) The limitations of paragraph (2) shall not apply to a State weatherization program under this part if the State or area weatherization plan adopted by a State in accordance with subsection (b), in the judgement of the Secretary, after consultation with the State Energy Advisory Committee, includes—

"(A) evaluation procedures which establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency;

"(B) standards to be used by the State to determine whether to invest in individual energy efficiency measures based on a rate of return that will ensure that investment in each measure is an appropriate use of low-income weatherization assistance; and

"(C) energy audit procedures and techniques which measures (i) the energy requirements of individual dwellings; (ii) the rate of return of each conservation investment; and (iii) the interaction between energy efficiency measures".

(2) Amend the redesignated paragraph 415(a)(2), by adding a comma at the end of the last sentence before the period and the following: "except that a State may provide in the plan adopted pursuant to subsection (b) for subgrantees receiving grants in amounts less than \$350,000, whom the State has determined require additional financial assistance to effectively implement the administrative requirements established by the Secretary pursuant to this part, to use up to an additional five percent of the subgrant made under this part for implementation of such administrative requirements".

(f) DWELLING UNIT LIMITATION.—Section 415(c) of such Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking "The expenditure" and inserting in lieu thereof "Except as provided in paragraphs (3) and (4), the expenditure"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) Beginning with fiscal year 1990, the \$1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to the percentage increase in the Consumer Price Index for the previous fiscal year multiplied by the limitations amount for such previous fiscal year. The increase under the preceding sentence for any fiscal year shall not exceed 3 percent.

"(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary may, upon application by a State, establish an average per dwelling unit limitation for dwelling units in such State—

"(i) which conform to program requirements;

"(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part; and

"(iii) for which determination is made pursuant to regulations prescribed by the Secretary that such furnace efficiency modifications are a cost-effective use of funds.

"(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

"(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

"(ii) an amount determined by the Secretary to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State."

(g) **NON-FEDERAL FUNDING REQUIREMENT.**—Section 414(b)(3) of such Act is amended by deleting "and (B)" and inserting the following:

"(B) for employing Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C)".

(h) **ADDITIONAL REPORTING REQUIREMENT.**—Section 421 of such Act is amended by adding at the end thereof the following:

"Such report shall include information and data furnished by each state on the average costs incurred in weatherization of individual dwelling units."

(i) **REPEAL OF PERFORMANCE FUND.**—Section 415(d) of such Act (42 U.S.C. 6865(d)) is repealed.

(j) **ESTABLISHMENT OF WEATHERIZATION INCENTIVE FUND.**—Section 415 of such Act (42 U.S.C. 6865) is further amended by adding new subsections (d) and (e), as follows:

"(d) Beginning in fiscal year 1992, the Secretary, to the extent provided for in the Appropriations Act, may allocate such funds as are provided in the Low-Income Weatherization Incentive Fund to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination the Secretary shall:

"(1) consult with the State Energy Advisory Board pursuant to section 365(g)(2)(E); and

"(2) give priority to those States which have employed Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources.

"(e)(1) Beginning in fiscal year 1991, the Secretary may allocate among the States an equal amount, not to exceed \$100,000 per state, of the funds appropriated for the purposes of this part. Such funds shall be available to the States to provide supplementary financial assistance to those subgrantees which the States determine have achieved the best performance during the previous fiscal year in advancing the purposes of this part, except that none of such funds may be used for State administration of this program. In making such determination, States shall give priority to those subgrantees who by rule, law, or administrative and executive action have provided non-Federal resources, including private resources, to supplement Federal financial assistance under this part.

"(2) The regulations promulgated by the Secretary pursuant to section 413(b) shall include guidelines to be used by each State in making the determination under paragraph (1). When promulgating such guidelines the Secretary shall consult with the State Energy Advisory Board pursuant to section 365(g)(2)(E)."

(k) **ASSISTANCE FOR UNEMPLOYED PERSONS TRAINING PROGRAM.**—The Secretary shall make available to States from available funds up to \$300,000 in the aggregate to establish training programs for unemployed persons in Low-Income Weatherization auditing and installation skills.

SEC. 10. SUPPORT FOR TECHNOLOGY APPLICATIONS.

(a) The Secretary shall establish a Low-Income Home Weatherization Technology Applications Project and a State Energy Conservation Technology Applications Project in the Office of Conservation and Renewable Energy. These projects shall identify and evaluate the technologies, measures, and practices, including energy evaluation instruments, which are most effective in increasing energy efficiency. The projects also shall provide mechanisms for assisting State and local providers in applying improvements to their markets and service areas; including but not limited to, technical papers and manuals, training sessions and direct access to technical specialists.

(b) The Low-Income Home Weatherization Technology Applications Project and State Energy Conservation Technology Applications Project shall conduct special-

ized research and technical assistance to address the needs of warm weather states in implementing cooling measures and developing audits suitable for warm climates.

(c) In the report pursuant to section 421 of the Energy Policy and Conservation Act, the Secretary shall report on progress in the application of energy efficiency technology measures and management practices, including those for cooling measures, for Low Income Weatherization and other purposes.

SEC. 11. AUTHORIZATIONS OF APPROPRIATIONS.

(a) STATE PLAN PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6324(f)) is amended to read as follows:

"(f) For the purpose of carrying out this part, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act \$25,000,000 for fiscal year 1991, \$35,000,000 for fiscal year 1992, and \$45,000,000 for fiscal year 1993."

(b) ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f(a)) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act \$40,000,000 for fiscal year 1991, \$50,000,000 for fiscal year 1992, and \$60,000,000 for fiscal year 1993."

(c) WEATHERIZATION ASSISTANCE PROGRAM.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. (a) There are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for purposes of carrying out the weatherization program under this part other than sections 415 (d) and (e), \$200,000,000 for fiscal year 1991 and such sums as may be necessary for 1992 and 1993."

(b) There are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for purposes of carrying out the weatherization program under sections 415 (d) and (e), \$20,000,000 for 1991 and such sums as may be necessary for 1992 and 1993.

SEC. 12. TERRITORIAL ENERGY ASSISTANCE PROGRAM.

(a)(1) The Secretary of Energy, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901, et seq.), may grant financial assistance to Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular area on imported fuels and improve the quality of life in the insular area.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy entities in the area with necessary expertise to successfully effectuate the project, including, but not limited to, the local energy agencies and power authorities, public works departments, the Army Corps of Engineers, the Pacific International Center for High Technology Research, and the Center for Energy and Environmental Research of the University of Puerto Rico.

(3) In determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy measure, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project or measure.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) for the purpose of this section, the term—

(1) "Insular area government" means American Samoa government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam, Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands;

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (P.L. 96-597, 94 Stat. 3480; as amended by P.L. 99-213, 97 Stat. 1460)

(c) For each fiscal year, there is hereby authorized to be appropriated for the purposes of this section, \$500,000.

PURPOSE

The purpose of S. 247 is to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State Energy Conservation Programs carried out pursuant to such Act, and for other purposes.

SUMMARY

In summary, S. 247 amends the existing Department of Energy (DOE) statutes providing State and local governments with financial and technical assistance to conduct various energy conservation programs. The intent of the bill is to encourage State and local governments to streamline their existing programs to place greater emphasis on integrated energy planning and to increase the cost-effectiveness of energy conservation measures being implemented pursuant to the Weatherization Assistance Program and Schools and Hospitals Program.

BACKGROUND AND NEED

S. 247 was introduced to update and improve the various State and Local Assistance Programs (SLAP) authorized in 1974 by the Energy Policy and Conservation Act (EPCA), the 1975 Energy Conservation and Production Act (ECPA) and 1975 National Energy Extension Services Act (NEESA). These programs were further modified in 1978 by the National Energy Conservation Policy Act (NECPA). These statutes were originally enacted as part of the Federal response to the 1973 OPEC oil embargo which brought energy shortages and escalating international oil prices. In the intervening years, the energy supply situation has changed had these programs have matured to place greater emphasis on the more efficient use of available energy supplies.

The legislation redefines our Nation's energy conservation goals and authorizes a mix of energy efficiency, alternative energy resource, and energy demand management measures, in order to further the nation's energy conservation goals. The legislation is also intended to help offset the need for additional energy supplies, which under present market conditions will be derived in large part from foreign sources.

The four separate SLAP programs, administered at both the State and local level by the Department of Energy (DOE), provide States with Federal technical assistance and dollars to spend on specific energy conservation programs, including low-income home

weatherization, matching grants to schools and hospitals for energy conservation projects, energy education and various other State and local conservation programs. The programs are described in greater detail as follows:

State Energy Conservation Program (SECP).—The SECP provides financial assistance to the State energy offices. The SECP is designed to promote energy efficiency in the residential and commercial sectors by establishing or expanding State capabilities to plan, design and implement energy conservation measures. Under the existing programs, the States work cooperatively with DOE to develop and implement comprehensive plans for achieving specific energy goals that were formulated during the 1970's. As a consequence, the programs emphasize implementation of various mandatory and discretionary programs: car-pooling, right-turn-on-red, lighting standards, thermal efficiency standards, procurement practices, energy audits, and technical assistance. Cumulative energy savings from the SECP/EES programs, based on reports submitted by the States, are estimated by DOE at 4.23 quads through fiscal year 1987.

Institutional (Schools and Hospitals) Conservation Program (ICP).—The ICP provides matching, cost-shared grants (50 percent from the Federal Government/50 percent from participating institutions) for detailed energy analyses and energy saving capital improvements in public and private non-profit schools and hospitals. The program provides technical assistance grants for audits to identify needed energy conservation measures and encourages States and institutions to seek innovative non-Federal funding sources for energy efficiency improvements. Since 1977, over 26,000 schools and over 32,000 buildings have participated in the ICP program. DOE estimated in testimony for the May 2, 1989, hearing record, that ICP has had a cumulative energy savings of 317 trillion BTUs, or a cumulative financial savings of \$1.9 billion.

Weatherization Assistance Program (WAP).—The purpose of the weatherization program is to reduce the effects of high fuel costs for heating and cooling on low-income families. Individuals are provided with up to \$1,600 (adjusted annually for inflation) worth of cost-effective weatherization measures, such as caulking and weatherstripping, storm windows, air conditioning, attic insulation, and heating and cooling system improvements. Currently, funds are allocated through a DOE formula established in the 1970's which reflects the number of low-income households, the number of heating and cooling degrees in each State, and eligible energy conservation measures, thereby placing an emphasis on heating related measures compared to cooling measures.

Much of the Nation's housing stock is in extremely poor condition, and the inadequacy of the building shells, wiring and furnace systems, and ventilation in these homes compounds the already considerable proportion of poor families' income spent on energy. National studies show that the poor spend roughly 11 percent of their incomes on residential energy costs, compared to between 3 and 4 percent for the average American household. Approximately 2 million of 18 million eligible households, have received weatherization assistance since the DOE program began in 1977, for an average annual energy savings of 14 percent per household.

Energy Extension Service (EES).—EES is a Federal/State cooperative effort to provide small scale energy users with individually tailored technical assistance for energy conservation activities and the use of renewable resources. Under EES, the States provide a 20 percent match in funds or services for all Federal funds received. State energy offices are responsible for implementing and managing EES programs such as energy audits, self-help workshops, and technical publications.

The SLAP programs are funded through both direct congressional appropriations and the States' use of Petroleum Overcharge Funds. DOE currently monitors State plans for, and expenditures of, these oil overcharge funds to ensure that these funds are used in a manner consistent with various court settlements. Within the terms of these settlements, petroleum overcharge funds may be used to supplement funding for existing Federal energy programs or projects developed at the State level "to benefit, directly or indirectly, consumers of petroleum products with the State", or for programs under SECP. Oil overcharge funds are by law restitutionary funds.

Because of the existence of these restitutionary funds, Congress was forced to address an appropriate level of direct Federal funding for these programs, particularly in light of the Reagan Administration's annual budget recommendation that these programs be terminated. Consistently, however, Congress has chosen to appropriate a base level of funding that would enable DOE to sustain the various SLAP programs and also monitor the State's use of overcharge funds. The authorization levels in S. 247 will permit the States to remain at funding levels that are necessary to sustain their programs.

In some States, these oil overcharge funds are running low and in other States have, in fact, been depleted. The National Consumer Law Center tabulates that of the \$3.05 billion of Exxon and Stripper Well funds that the States received from 1986 through January 1989, 95.04 percent have been allocated.

LEGISLATIVE HISTORY

On January 25, 1989, S. 247 was introduced by Senator Metzenbaum and referred to the Committee on Energy and Natural Resources. Subsequently 41 Senators (Rudman, Pell, Matsunaga, Inouye, Heinz, Burdick, Lugar, Sanford, Bumpers, Wirth, Kerrey, Lieberman, Pryor, Exon, Jeffords, Cohen, Stevens, Fowler, Sasser, Conrad, Daschle, Lautenberg, Cranston, Bradley, Levin, Simon, Biden, Kohl, Boren, Bingaman, Glenn, Harkin, Leahy, Bryan, Adams, DeConcini, Baucus, Mikulski, Kerry, Sarbanes, and Graham) were added as cosponsors of S. 247.

The Subcommittee on Energy Regulations and Conservation held a hearing on May 2, 1989. Following the hearing, an amendment in the nature of a substitute was prepared in response to concerns raised by Chairman Johnston and Senators Metzenbaum, Nickles, McClure and Domenici, as well as representatives from DOE.

At the business meeting on November 15, 1989, the Committee marked up the legislation and reported it unanimously with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on November 15, 1989, by unanimous vote of a quorum present recommends that the Senate pass S. 247, as amended. The roll call vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Johnston	
Bumpers	
Ford	
Metzenbaum	
Bradley*	
Bingaman*	
Wirth*	
Conrad	
Heflin	
Rockefeller*	
McClure	
Hatfield*	
Domenici	
Wallop	
Murkowski*	
Nickles*	
Burns	
Garn*	
McConnell	

*Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Section 1 provides that the short title is the "State Energy Efficiency Programs Improvement Act of 1989."

SECTION 3. STATE ENERGY EFFICIENCY GOALS

Section 3 amends section 364 of EPCA to require each State to revise its energy conservation plan under EPCA section 362 to establish an energy efficiency goal that achieves at least a 10 percent improvement in the efficiency of energy use compared to the projected consumption by the year 2000 for such State and is self-explanatory.

SECTION 4. REQUIRED STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF ENERGY EXTENSION SERVICES

Subsection 4(a) amends EPCA section 362(c) to impose additional requirements for approval of the State energy conservation plans necessary to be eligible for Federal assistance. These requirements include the establishment of procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State and the implementation of the functions of the DOE Energy Extension Service. These requirements also include establishment of energy emergency policies and

procedures, including a supplementary contingency plan. Each State is required to develop or arrange for the development of a supplementary contingency plan to satisfy the provisions contained in this section. This requirement is not intended to mandate the specific content of these contingency plans, but to provide maximum flexibility to the States in carrying out the provisions of this Act.

Subsection 4(b) adds a new EPCA section 362(f) which provides for the merger of the basic elements of the EES into the SECP in order to streamline administrative tasks associated with the operation of the two programs. The fundamental structure and function of the EES are preserved.

Subsection 4(c) eliminates the EES as a separate program and incorporates it into the mandatory elements of the SECP programs. The subsection also repeals the EES Advisory Board and the Supplemental State Energy Conservation Program as the key provisions have been incorporated into the merged SECP/EES program.

SECTION 5. OPTIONAL STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN

Subsection 5(a) amends EPCA section 362(d) to expand and update the optional measures allowable under the State energy conservation plan. These additional program elements include those programs for financing energy efficiency and renewable energy capital investments, projects, and performance contracting. These elements also include programs to increase transportation efficiency, to encourage energy audits, to promote integrated and dynamic energy planning including demand side energy planning and load management, to protect the consumer from any unfair or deceptive practices, and to promote energy efficiency in residential housing through the establishment of a uniform home energy rating system. The approved optional measures would be eligible for Federal financial assistance where included in approved State energy conservation plans.

Subsection 5(b) amends EPCA by adding a new section 362(g) which establishes an Energy Technology and Engineering Services Program. This optional State program would also be eligible for Federal financial assistance if included in an approved State energy conservation plan. This new optional program element is included to encourage States under this Act to establish State and local capabilities to assist small and start-up business in obtaining information related to the manufacture and commercial production of new energy technologies. The program is therefore intended to provide at the local level services comparable to ongoing national activities by DOE, such as the National Appropriate Technology Assistance Service and the Inventor-Assistance Program.

Subsection 5(c) updates the statute definition of an energy conservation measure in EPCA section 366(4) to extend the eligibility date for buildings receiving financial assistance under the program from April 20, 1977, to May 1, 1989. This change permits those buildings constructed in the past 12 years to be eligible for ICP funds.

Subsection 5(d) eliminates the supplemental State Energy Conservation Plans under EPCA.

SECTION 6. ADDITIONAL CONDITIONS FOR FEDERAL ASSISTANCE

Subsection 6(a) amends EPCA section 363(b) to include provisions designating the percentage allocation of Federal financial assistance provided to the States in fiscal years 1991 and 1992 under this section to be the same percentage of the Federal funds received in fiscal year 1990. In addition, the subsection directs the Secretary to repromulgate the formula after fiscal year 1992 to take into account population considerations and any other factors deemed appropriate including the implementation of these amendments.

Section 6(b) adds a new EPCA section 363(g) which requires as a condition of receipt of financial assistance under EPCA, that each State's energy conservation plan must include a supplementary contingency plan governing energy supply emergencies. This requirement is added in recognition that these programs were enacted during a period of energy supply shortages which no longer exist. However, the value of State preparedness in the event of an energy emergency remains. In recognition of the importance of each State's role in an effective national response to a national energy emergency, it is intended that the appropriate State agency will participate in the formulation of each energy emergency contingency plan and that such plans will be submitted to the Secretary for his or her use and consideration in the formulation of an effective national energy emergency capacity.

Section 6(b) also adds a new EPCA section 363(e) which requires that Federal financial assistance under any of the SLAP programs be used only to supplement, and not supplant, otherwise available State and local funds.

SECTION 7. STATE ENERGY ADVISORY BOARD

Section 7 revises EPCA section 365 to establish a State Energy Advisory Board of between 18 and 21 members chosen from those persons who have experience in the fields of energy efficiency, weatherization, and renewable energy. Members shall be appointed according to the specifications of the language of the Act. Typically, State weatherization programs fall under the governance of the State energy office. Therefore, the Secretary should make every effort to ensure that the Advisory Board has a mix of members including, but not limited to, one State WAP director who is not also an energy office director and at least one member from a local Community Action Agency. This requirement is intended to ensure that local program operators who coordinate the funds and activities of public and private weatherization agencies will receive at least one voice on the Board.

The Advisory Board is designed to provide the Secretary with direct access to State and local expertise in weatherization and other program areas. Therefore, it is the intention of the Committee that the Board neither review grant applications nor evaluate the performance of State programs for the purpose of awarding Federal funds including weatherization incentive funds. Such ac-

tivities would represent a conflict of interest on the part of the Advisory Board.

The primary duties of the Board should be to provide a mechanism for direct consultation with State and local program directors and to aid the Secretary in the formulation of criteria for the Secretary's use in the evaluation of State and local energy conservation plans and programs. These duties shall include review of the implementation of State SECP and WAP programs with the purpose of making recommendations to the Secretary regarding programmatic and administrative policies designed to strengthen the programs and improve their efficiency.

The Advisory Committee's annual report shall be submitted to the appropriate Congressional Committees within 90 days of the last annual meeting.

SECTION 8. UPDATE OF ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

Subsection 8(a) amends EPCA section 396 to permit certain innovative financing methods and programs to qualify as the non-Federal costs for the purpose of meeting the Federal matching fund requirement. Examples include performance contracting and loan programs.

Subsection 8(b) amends EPCA sections 391 (1) and (8) and is self-explanatory.

Subsection 8(c), which amends EPCA section 396(d), permits States to use up to 100 percent of their Federal ICP funds for technical assistance analyses, provided that sufficient alternative funding is found to ensure that the States are not using more than 15 percent of total funds available for technical assistance. The term "total funds available" is meant to include both Federal and State sources of funds for technical assistance and energy conservation measures in the ICP. Allowable costs associated with leveraging non-Federal funds include, but are not limited to, costs associated with procuring the services of bond and program counsel, financial consultants and lenders, development of contracts to be used for financing, interest or principal buy-down, and debt reserve fund capitalization.

The objective of these programs should be to provide schools and hospitals with the necessary program assistance to finance and install effective energy conservation measures. Consistent with this objective, program assistance should include evaluation of consultant engineer services, the training of school personnel to perform energy accounting, and the continual monitoring of the implementation and operation of energy conservation measures. In addition, program assistance should be structured to aid schools and hospitals in the procurement of energy efficient equipment and contracting procedures.

The term marketing includes, but is not limited to, the following: site visits with school and hospital officials to review program opportunities; presentations to groups such as school or hospital board officials and personnel; and preparation and dissemination of articles in publications directed to school and hospital personnel.

The aforementioned allowances are intended to promote innovative financing of ICP projects, such as the Iowa School Energy Bank Program, and to codify the "Hatfield Amendment" contained in the Interior Appropriations bill during the previous 2 fiscal years.

Alternatively, if States can certify to DOE on an annual basis, that their Federal funds expended under the ICP program are less than 15 percent of the total funds used for energy conservation measures, then States may utilize up to 100 percent of their Federal ICP funds for program and technical assistance, and marketing, provided that marketing and related costs associated with leveraging non-Federal ICP funds totals no more than 50 percent of the Federal allocation. In addition, States which meet the aforementioned criteria, may administer a continuous and consecutive applications and award process for technical assistance funds.

Subsection 8(d) is self-explanatory.

SECTION 9. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Section 9 amends the definition of those "weatherization materials" in section 412(9) of ECPA which are eligible for financial assistance under the DOE Low-income Weatherization Assistance Program to include certain cooling measures. The weatherization materials currently listed in section 412(9) of ECPA are intended to emphasize improvements in energy efficiency for either heating or hot water energy use. For example, current law allows for furnace efficiency modifications as eligible activities under the DOE program, but does not consider air-conditioning or cooling efficiency modifications as eligible for financial assistance. Thus, DOE's list of allowable measures emphasizes winter energy requirements and does little to address either the cooling needs of the warm weather States where energy for cooling is often a major portion of residential energy costs or, more importantly, the annual energy costs incurred by low-income individuals which include both heating and cooling needs.

Subsection 9(a) instructs DOE to add to the list of eligible weatherization measures cost-effective cooling efficiency modifications such as replacement of air conditioners, ventilation equipment, shading devices, screening, and window films. The addition of these measures would enable the program to be restructured to place greater emphasis on improving the efficiency of energy use by low-income households on an annual basis which reflects regional differences in heating and cooling requirements. With these changes, benefits would accrue to the southern States by providing these State programs with the flexibility to use weatherization funding allocations for DOE approved cooling efficiency measures at very little additional overall cost to the programs.

It is important to the success of the program, to ensure that proper disposal procedures exist for sub-standard air-conditioning units and that these sub-standard units are replaced and not recycled. These disposal procedures are meant to preclude the fraudulent use of such air-conditioning units by homeowners or secondary parties except as such sales directly benefit the Community Action Agency or its subgrantees.

Within 90 days of the enactment of this Act, the Secretary is directed to add the best available technologies for cooling efficiency on to the list of allowable weatherization measures. In addition, the Secretary in the fiscal year 1990 report, will provide analyses to the Committee regarding the adequacy of those energy audit measures currently being used by the States for identifying appropriate cooling efficiency modifications. In addition, within 90 days of the enactment of this Act, the Secretary is directed to establish a study regarding the impact of high humidity on the installation and overall effectiveness of weatherization materials. The Secretary is directed to make the results of such study available to State program administrators through the Technology Applications Project.

Section 9(b) amends EPCA section 413(b) regarding the pass-through of energy cost savings to renters. The Low-Income Weatherization Program is intended as a transfer program for low-income households to meet their high cost of energy by cutting heating and cooling costs. In the past, the lack of clear regulations or guidelines on rental weatherization was often ignored because weatherization activity focused almost exclusively on owner-occupied units. While the benefits of weatherization improvements are obvious for homeowners and landlords, the advantages for renters are less clear. In fact, many renters or occupants of multi-family rental units who pay for their energy use through their rent, may not realize any direct energy cost savings from weatherization. Absent prescriptive standards by DOE and the States, the benefits of rental weatherization may accrue to the landlords rather than low-income community.

The Committee intends for the language contained in the amendment to EPCA section 413(b) to protect against the possibility of undue or excessive enhancement to landlords of multi-family buildings under the weatherization program. The amendment provides State administrators with the regulatory authority to require monetary participation by owners of multi-family rental properties who participate in the weatherization program. In addition, the language ensures that the monetary benefits of weatherization accrue to the low-income tenants who reside within individual weatherized units, rather than landlords or other third parties.

This section intends that tenants in applicable units (including those tenants in households paying for their energy through their rent), not be subjected to rent increases unless such rent increases are demonstrably related to matters other than the weatherization work under the program. The section requires the Department of Energy to set standards of protection for rental weatherization and eliminate ambiguity within the present statutory guidelines regarding forced eviction, rent reductions, and the re-sale of weatherized multi-family low-income units. These DOE guidelines and standards are intended to be permissive in nature, and are not meant as a directive to the States.

Subsection 9(c) amends EPCA section 413(b).

Section 9(d) amends the formula for State allocations of low-income weatherization assistance funds in EPCA section 414. Effective with fiscal year 1991, the Secretary is directed to repromulgate the formula for the allocation of weatherization funds for the Low-Income Weatherization Assistance Program to include the latest

available data on low-income population, percentage of energy used for heating and cooling, the costs of heating and cooling, and all other information which the Secretary determines to be relevant.

The Committee intends that there be a more equitable distribution of Federal financial assistance among the States than presently exists. The current formula's squaring of heating and cooling degree days does not appear to provide for an equitable national distribution of available federal funds among low-income households. By requiring a repromulgation of the formula, the Committee intends to achieve a more equitable distribution of such WAP funds based on the nationwide low-income population.

In this regard, the Secretary shall determine whether, in fact, the current formula's squaring of heating and cooling degree days unfairly favors certain States, and, if so, shall take immediate steps to change the allocation formula to reflect a more equitable national distribution of funds among low-income households. In this regard, the Committee intends that the Secretary, in consultation with the State Advisory Board established under the Act, develop a new formula and criteria for determining the most equitable methods of allocating weatherization funds based on low income population, number of heating and cooling days, the relative costs of heating and cooling, and the annual costs incurred by low-income households for heating and cooling.

Current weatherization programs depend on an audit-driven list of home energy efficiency measures which require that 40 percent of individual home expenditures be for materials and 60 percent for labor. The original purpose was to ensure that high quality materials were not superceded by exaggerated labor costs. However, the 60/40 requirement has come to mean that weatherization contractors are often forced to choose less efficient investments in more expensive materials to meet the quota. Subsection 9(d) seeks to end this practice in order to ensure the most efficient use of money and resources.

The Committee received testimony by State administrators of the weatherization program, and data from the Oak Ridge National Laboratory, which outlined the severe problems many local agencies with small weatherization programs have in meeting State and Federal administrative reporting requirements under the 5 percent permitted for administrative costs. Given this perceived funding gap, subsection 9(e) modifies ECPA with regard to such small programs to provide a waiver of administrative cost requirements for agencies which meet certain specifications. States are expected to establish exacting criteria for determining which subgrantees genuinely require a waiver and the minimum level of additional funding required. DOE shall report to the Committee by January 1991, on the progress taken by State and local agencies to maximize their administrative efficiency and thereby minimizing administrative expenditures consistent with the requirements of this Act.

Subsection 9(g), which amends FCPA section 414(b)(3), is self-explanatory.

Subsection 9(h), which amends ECPA section 421, is self-explanatory.

Subsection 9(i) repeals the weatherization performance fund in ECPA section 415(d) which was rarely implemented due to its link-

ages with a minimum funding level for the overall weatherization program.

Subsection 9(j) establishes a new Low-Income Weatherization Incentive Fund. The newly established fund is designed to provide an incentive to the States to increase their sources of non-Federal funding, including those funds coming from private sources such as utilities. Consistent with other provisions in the bill, the Incentive Fund is intended to reward those State and local programs that use available Federal financial assistance to leverage non-Federal funds into their programs. The availability of Federal funds for this Incentive Fund Program element are subject to the Appropriations Act. Such funds shall be disbursed on the basis of criteria established by the Secretary, in consultation with the advice of the State Energy Advisory Board. Such criteria shall be formulated so as to provide recognition to those programs that use their available funds effectively.

In addition, beginning in fiscal year 1991, subsection 9(j) authorizes the Secretary to allocate up to \$100,000 annually per State in order to provide extra funds for each State to provide supplementary grants to those subgrantees who have been most successful in leveraging non-Federal funds into their programs. This incentive is intended to provide a means to reward those subgrantees that run the most effective programs. These supplementary funds, however, are not to be used by either the States or the subgrantees for administration of the program.

Subsection 9(k) makes \$300,000 available annually to States for use in the establishment of a training program for unemployed persons. This program is meant to assist low or non-skilled workers in developing technical skills in the fields of energy auditing and weatherization installation.

SECTION 10. SUPPORT FOR TECHNOLOGY APPLICATIONS

State and local administrators of the Weatherization Assistance Program have brought the issue of technology support and transfer to the attention of the Committee. Although the States have been successful in developing innovative techniques to conserve energy, manage program resources, and promote safety improvements, the decentralized nature of the weatherization program has impeded the exchange of information and ideas among the States. Therefore, the Low-Income Home Weatherization Technology Applications Project and the State Energy Conservation Technology Applications Project were designed as one mechanism to serve as a conduit for coordinating and disseminating the decentralized expertise and innovation of the State and local programs into practical information which can be widely applied.

In addition, the projects will encourage DOE to conduct more intensive evaluations of energy efficiency technologies and management techniques, formal training and operational materials and manuals, and distribute the results of such evaluations to State energy and weatherization offices and local providers. The subjects on which the Committee requests evaluations include, but are not limited to the following: techniques for measuring indoor air quality in weatherized units; the prevalence of, and corrective measures

for, sources of hazardous emissions in energy systems; the safety of furnace and other heating units in weatherized units; and a comparative analysis of building energy evaluations or "audits" for various climates and housing stocks, including those specifically designed for warm weather States.

The legislation requires that the Office of State and Local Programs operate these technology applications programs separately, one addressing the weatherization needs of low-income housing residents, the other addressing other market sectors served by State programs. In managing the Technology Applications Programs, the Secretary will be expected to draw on the expertise of the State Energy Advisory Board, the National Laboratories, and conservation research offices.

SECTION 11. AUTHORIZATIONS

Section 11(a) amends EPCA section 365(f) to authorize appropriations for fiscal years 1991-1993 for State Energy Conservation Programs of the Department. Total amounts are authorized as follows: \$25 million for fiscal year 1991, \$35 million for fiscal year 1992, and \$45 million for fiscal year 1993.

Section 11(b) amends EPCA section 97 to authorize appropriations for fiscal years 1991-1993 for energy conservation in the Schools and Hospitals Program. Total amounts are authorized as follows: \$40 million for fiscal year 1991, \$50 million for fiscal year 1992, and \$60 million for fiscal year 1993.

Section 11(c) amends EPCA section 422 to authorize appropriations for fiscal years 1991-1993 for Weatherization Assistance Programs. Total amounts are authorized as follows: \$200 million for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

SECTION 12. TERRITORIAL ENERGY ASSISTANCE PROGRAM

Section 12 authorizes the Secretary of Energy to provide financial assistance to Insular area governments to encourage the adoption of energy efficiency and renewable energy measures. An annual appropriation of \$500,000 is authorized.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 18, 1989.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 247, the State Energy Efficiency Programs Improvements Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 247.
2. Bill title: State Energy Efficiency Programs Improvements Act of 1989.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, November 15, 1989.

4. Bill purpose: The bill would amend the Energy Policy and Conservation Act by changing and supplementing provisions for state energy conservation programs. First, S. 247 would change goals and the procedures for preparation of state energy conservation plans. The bill includes authorizations for fiscal years 1991 through 1993, totaling \$105 million, for the state plan program.

S. 247 would also update and broaden programs for grants to states for energy conservation in schools and hospitals, and for home weatherization. The bill authorizes a three-year total of \$150 million for the schools and hospitals program. In addition, S. 247 authorizes \$220 million for weatherization in fiscal year 1991, and such sums as necessary for fiscal years 1992 and 1993.

The bill also authorizes \$500,000 per year for financial assistance to U.S. territories for energy conservation and for the use of renewable energy measures.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level	286	314	344	1	1
Estimated outlays	71	236	302	250	68

The costs of this bill fall within budget function 270.

Basis of estimate: The bill authorizes specific amounts for all programs in fiscal year 1991, and for some programs after 1991. For the weatherization program, S. 247 authorizes "such sums as may be necessary" for fiscal years 1992 and 1993. This estimate assumes that appropriations for weatherization in those years would increase at the rate of inflation.

CBO assumes that all amounts authorized will be appropriated and that spending will occur at historical rates for energy conservation program.

6. Estimated cost to State and local governments: If the authorized funds are appropriated, state governments would receive all but about \$20 million of the estimated outlays shown in the table above for conducting energy conservation programs. (The remaining \$20 million would be spent as federal program management and administrative costs.)

7. Estimate comparison: None.

8. Previous CBO estimate: None.
9. Estimate prepared by: Pete Fontaine.
10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the effect of the regulatory impact that would be incurred in carrying out S. 247.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibility on private individuals or businesses. The bill contains authorizations for research, training, and energy efficiency programs of the Secretary of Energy and directives to the Secretary with respect to the operation of these programs. Any involvement of private firms and individuals in these research, training, and energy efficiency programs is voluntary.

No personnel information would be collected in administering the program. Therefore, there would be no impact on personal privacy from the bill.

Little, if any, additional paperwork would result from the enactment of S. 247.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the bill S. 247, as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proposed is shown in roman);

ENERGY POLICY AND CONSERVATION ACT

Public Law 94-163, as Amended

AN ACT To increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act".

* * * * *

TITLE III—IMPROVING ENERGY EFFICIENCY

* * * * *

PART D—STATE ENERGY CONSERVATION PLANS

FINDINGS AND PURPOSE

SEC. 361. (a) The Congress finds that—

- (1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve

efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Secretary to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

STATE ENERGY CONSERVATION PLANS

SEC. 362. (a) The Secretary shall, by rule, within 60 days after the date of enactment of this Act, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Secretary shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation the State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) The Secretary shall, by rule, within 6 months after the date of enactment of this Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Secretary shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States); **[and]**

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping **[.]**;

(6) *procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of State and Local Assistance Programs of the Department of Energy as of December 31, 1987, and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services;*

(7) *in accordance with subsection (f), programs to implement all the functions of the Energy Extension Service, as provided by law on the day before the date of enactment of the State Energy Efficiency Programs Improvement Act of 1989; and*

(8) *in a supplementary contingency plan, energy emergency policies and procedures to deal with energy supply disruptions including petroleum products, electricity, natural gas, coal, and other energy supply and delivery disruptions.*

(d) Each proposed state energy conservation plan may include—

(1) restrictions governing the hours and conditions of operations of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

[(3) transportation controls;

[(4) programs of public education to promote energy conservation; and

[(5) any other appropriate method or programs to conserve and to improve efficiency in the use of energy.]

(3) *programs for financing energy efficiency and renewable energy capital investments, projects, and programs—*

(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures;

(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

(4) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxis, mass transit and privately owned vehicles;

(5) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

(6) programs to promote the adoption of integrated energy plans which provide for—

(A) periodic evaluation of a State's energy needs, available energy resources (including energy efficiency), and energy costs; and

(B) utilization of reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

(7) programs to promote energy efficiency in residential housing, such as—

(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

(8) programs to protect consumers from any unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures;

(9) programs to promote energy efficiency as an integral component of economic development programs conducted by State, local or other governmental entities, and energy utilities;

(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

(11) programs to encourage integrated energy and environmental planning by other State, county, and local governmental agencies and authorities, including regulatory authorities with jurisdiction over energy utilities;

(12) in accordance with subsection (g), programs to implement the function of the Energy Technology and Engineering Services Program; and

(13) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.

(e) The Governor of any State may submit to the Secretary a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy

supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section.

(f) *The programs to implement all the functions of the Energy Extension Service, as provided for by subsection (c)(7), shall—*

(1) *include programs for identification, development, and demonstration of energy efficiency opportunities, techniques, methods, materials, and equipment (including those that are responsive to local needs or resources) and alternative energy technologies such as solar heating and cooling for agricultural, commercial, and small business operations, individual energy consumers, and new and existing residential, commercial, and agricultural buildings or structures;*

(2) *provide for technical assistance, instructions, information dissemination, and practical demonstrations with respect to energy efficiency opportunities;*

(3) *provide, to the maximum extent practicable within personnel and funding limitations, active outreach energy extension assistance (including information on end-user technology requirements) at the local level through appropriate offices (including metropolitan offices) and through county agents and technical staff assistance;*

(4) *make maximum use of existing outreach or delivery mechanisms or programs and include, to the maximum extent practicable, any State, local, university, college, or other organization's programs for energy information, education, or technology transfer which have activities or purposes similar to those of this part; and*

(5) *establish and implement policies and procedures designed to assure that assistance provided under this part does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but instead supplement such funds and increases the expenditure of such State or local funds to the maximum extent practicable.*

(g)(1) *The purposes of this subsection are to—*

(A) *strengthen State outreach programs to aid small and start-up businesses;*

(B) *foster a broader application of engineering principles and techniques to energy technology product development, manufacturing, and commercial production by small and start-up businesses; and*

(C) *foster greater assistance to small and start-up businesses in dealing with the Federal government on energy technology related matters.*

(2) *The programs to implement the functions of the Energy Technology and Engineering Services program, as provided for by subsection (d)(12), shall—*

(A) *aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;*

(B) *encourage the application of such information in order to solve energy technology product development and manufacturing problems;*

(C) establish an *Energy Technology and Engineering Services* program affiliated with an existing entity in each State;

(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology development and commercialization; and

(F) facilitate contract research between university faculty and students and small and start-up businesses, in order to improve energy technology product development and independent quality control testing.

(3) Each State energy technology and engineering service program shall develop and maintain a data base of engineering and scientific experts in energy technology development and commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

(4) The services provided by the energy technology and engineering services program established under this section shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors including (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

(5) For the purposes of this subsection, the term—

(A) "institution of higher education" has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(B) "small business" means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy;

(C) "start-up business" means a small business which has been in existence for 5 years or less.

FEDERAL ASSISTANCE TO STATES

SEC. 363. (a) Upon request of the Governor of any State, the Secretary shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

(1) the preparation of the reports described in section 362, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 362 (b) or (e).

(b)(1) The Secretary may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or

part thereof which has been submitted to and approved by the Secretary pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 362(b) or (e), the Secretary—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Secretary determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this Act. No such plan shall be disapproved without notice and an opportunity to present views.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Secretary shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this Act, and such other factors as the Secretary deems appropriate.

(4) *In fiscal years 1991 and 1992, the percentage of available Federal financial assistance provided a State under this part shall be equal to the percentage the State received in fiscal year 1990 of the aggregate financial assistance by all States under this part and under section 506 of the National Energy Extension Service Act (42 U.S.C. 7005 (i)).*

(5) *The Secretary shall by rule establish the formula for the allocations of financial assistance after fiscal year 1992 on the basis of population and other factors the Secretary deems appropriate.*

(c) Each recipient of Federal financial assistance under subsection (b) shall keep such records as the Secretary shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the plan, program, projects, measures, or systems for which such assistance was given or used, the source and amount of funds for such plan, program, projects, measures, or systems not supplied by the Secretary and such other records as the Secretary determines necessary to facilitate an effective audit and performance evaluation. The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, at reasonable times and under reasonable conditions to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

(d) *In order for any State energy conservation plan to be eligible for Federal assistance under this section, the State must submit to the Secretary a supplementary contingency plan pursuant to section 362(c) (8) governing energy emergencies within such State. The contingency plan shall include an implementation strategy or strategies (including regional coordination) for dealing with such energy emer-*

gencies. The submission of such plan to the Secretary shall be for information purposes only.

(e) The Secretary shall establish policies and procedures designed to assure that Federal financial assistance under this part, the Weatherization Assistance for Low-Income Persons program under part A of Title IV of the Energy Conservation and Production Act (42 U.S.C. 6861, et seq.), and the Energy Conservation Program for Schools and Hospitals under part G of this Act (42 U.S.C. 6371, et seq.), will be used only to supplement, and not be used to supplant, State and local, and, to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b).

[ENERGY CONSERVATION GOALS

[SEC. 364. Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Secretary shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 362(b) which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Secretary shall specify the assumption used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.]

STATE ENERGY EFFICIENCY GOALS

SEC. 364. Effective October 1, 1990, each State energy conservation plan with respect to which financial assistance is made available by the Secretary under this part shall contain an energy efficiency goal, and may contain interim goals, for such State, which, as a result of the implementation of such plan, shall achieve at least a 10 percent improvement in the efficiency of use of energy supplies consumed in such State in the year 2000 compared to the projected energy consumption, as of October 1, 1990, for such State in the year 2000. The plan shall specify the assumptions used by the State in the determination of its projected energy supplies and demands taking into account population trends, economic growth, and the effects of Federal, State, and local energy efficiency programs.

GENERAL PROVISIONS

SEC. 365. (a) The Secretary may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) In carrying out the provisions of sections 362 and 364 and subsection (a) of section 363, the Secretary shall consult with appropriate departments and Federal agencies.

(c) The Secretary shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of

each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Secretary, if any, for additional legislation.

(d) The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

(e) Within 90 days after the date of enactment of this subsection, the Secretary shall—

(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis for financial assistance pursuant to section 509 of the Housing and Urban Development Act of 1970 or section 451 of the Energy Conservation and Production Act;

(2) designate, by rule, the types of, and requirements for energy audits.

[(f) There are authorized to be appropriated for carrying out the provisions of this part (other than section 367) \$50,000,000 for fiscal year 1976, \$50,000,000 for fiscal year 1977, \$50,000,000 for fiscal year 1978, and \$50,000,000 for fiscal year 1979.]

(f) *For the purpose of carrying out this part, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act \$25,000,000 for fiscal year 1991, \$35,000,000 for fiscal year 1992, and \$45,000,000 for fiscal year 1993.*

(g)(1) *There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the "Board") which shall consist of not less than 18 nor more than 21 members appointed by the Secretary. Not less than eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to Section 362. Not less than four members shall be directors of State or local Low Income Weatherization Assistance Programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs for the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, or research institutions. A majority of the members of the State Energy Advisory Board shall be state employees.*

"(2) The Board shall—

(A) make recommendations with respect to the energy efficiency objectives of the programs carried out under part G of this title, and under part A of title IV of the Energy Conservation

and Production Act to the Assistant Secretary for Conservation and Renewable Energy, the Director of the Office of State and Local Assistance Programs, and the Director of the Building and the Community Systems Office within the Department of Energy;

(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs;

(C) recommend changes to State and Federal energy policies;

(D) review State energy conservation plans and the implementation of state energy conservation programs for the purpose of making recommendations to the Secretary regarding programmatic and administrative policies designed to strengthen the programs and improve their effectiveness;

(E) review implementation by the States, of the Low-Income Weatherization Program and evaluate the performance of such States for the purpose of making recommendations to the Secretary regarding programmatic and administrative policies designed to strengthen the programs and improve their effectiveness, including actions that should be considered to provide non-Federal resources, including private resources, to supplement Federal financial assistance; and

(F) encourage technology transfer of the results of research and development activities carried out by the Federal government with respect to energy efficiency and renewable energy resources.

(3) The Secretary shall designate one member to serve as its chairman, one member to serve as its vice-chairman, and one member to serve as its secretary, who shall serve in those offices no longer than two years.

(4) The Secretary shall provide the Board with such services and facilities as may be necessary for the performance of its functions.

(5) The Board shall be nonpartisan.

(6) The Board may adopt administrative rules and procedures.

(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

(8) The Board shall meet at least three times per year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including any recommendations it may have for administrative or legislative changes.

DEFINITIONS

SEC. 366. As used in this part—

(1) The term "appliance" means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Secretary classifies as an appliance for purposes of this part.

(2) The term "building" means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term "energy audit" means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particu-

lar energy conservation measures or renewable-resource energy measures and which—

(A) is carried out in accordance with rules of the Secretary; and

(B) imposes—

(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 367, and

(ii) only reasonable costs, as determined by the Secretary, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

(4) The term “energy conservation measure” mean a measure which modifies any **[building or industrial]** *building, building system, energy consuming device associated with the building, or industrial* plant, the construction of which has been completed prior to **[the date of enactment of the Energy Conservation and Production Act]** *May 1, 1989*, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 365(e)(1), to be likely to improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy cost reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to an tax benefit or Federal financial assistance applicable thereto) within the period of—

(A) the useful life of the modification involved, as determined by the Secretary, or

(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Secretary, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure or type of measure, which the Secretary determines does not have as its primary purpose an improvement in efficiency of energy use.

(5) The term “industrial plant,” means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

(6) The term “renewable resource energy measure” means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Secretary by rule under section 365(e)(1), to—

(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of

such building or plant from a depletable source of energy to a nondepletable source of energy; and

(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(i) the useful life of the modification involved, as determined by the Secretary, or

(ii) 25 years after the purchase and installation of such measure,

whichever is less.

such term does not include the purchase or installation of any appliance.

(7) The term "public building" means any building which is open to the public during normal business hours.

(8) The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

【SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

【SEC. 367. (a)(1) The Secretary shall, within 6 months after the date of enactment of the Energy Conservation and Production Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, supplemental State energy conservation plans. Such guidelines shall include the provisions of one or more model supplemental State energy conservation plans with respect to the requirements of this section.

【(2) in prescribing such guidelines, the Secretary shall solicit and consider the recommendations of, and be available to consult with the Governors of the States as to such guidelines. At least 60 days prior to the date of final publication of such guidelines, the Secretary shall publish proposed guidelines in the Federal Register and invite public comments thereon.

【(3) The Secretary shall invite the Governor of each State to submit to the Secretary a proposed supplemental State energy conservation plan which meets the requirements of subsection (b) and any guidelines applicable thereto.

【(4) The Secretary may prescribe rules applicable to supplemental State energy conservation plans under this section pursuant to which—

【(A) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section; and

【(B) such plan under this section may be administered;

[as if such plan was a part of the State energy conservation plan program under section 362. Such rules shall not have the effect of delaying funding of the program under section 362.

[(5) Section 363(b)(2)(A), the last sentence of section 363(b)(2), section 363(b)(3), and section 363(c) shall apply to the supplemental State energy conservation plans to the same extent as such provisions apply to State energy conservation plans.

[(6) The Secretary may grant Federal financial assistance pursuant to this section for the purpose of assisting any State in the development of any supplemental State energy conservation plan or in the implementation or modification of such a plan or part thereof which has been submitted to and approved by the Secretary pursuant to this section.

[(b)(1) Each proposed supplemental State energy conservation plan to be eligible for Federal financial assistance under this section shall include—

[(A) procedures for carrying out a continuing public education effort to increase significantly public awareness of—

[(i) the energy and cost savings which are likely to result from the implementation (including implementation through group efforts) of energy conservation measures and renewable-resource energy measures; and

[(ii) Information and other assistance (including information as to available technical assistance) which is or may be available with respect to the planning, financing, installing, and with respect to monitoring the effectiveness of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures;

[(B) procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration;

[(C) procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants within such State; and

[(D) any procedures, programs, or other actions required by the Administrator pursuant to paragraph (2).

[(2) The Secretary may promulgate guidelines under this section to provide that, in order to be eligible for Federal assistance under this section, a supplemental State energy conservation plan shall include, in addition to the requirements of paragraph (1) of this subsection, one or more of the following:

[(A) the information of, and appointment of qualified individuals to be members of, a State energy conservation advisory committee. Such a committee shall have continuing authority to advise and assist such State and its political subdivisions, with respect to matters relating to energy conservation in such State, including the carrying out of such State's energy conservation plan, the development and formulation of any improvements or amendments to such plan, and the development and formulation of procedures which meet the requirements of subparagraphs (A), (B), and (C) of subsection (b)(1). The applicable

guidelines shall be designed to assure that each such committee carefully consider the views of the various energy-consuming sectors within the State and of public and private groups concerned with energy conservation;

[(B) an adequate program within such State for the purpose of preventing any unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures;

[(C) procedures for the periodic verification (by use of sampling or other techniques), at reasonable times, and under reasonable conditions, by qualified officials designated by such State of the purchase and installation and actual cost of energy conservation measures and renewable-resource energy measures for which financial assistance was obtained under section 509 of the Housing and Urban Development Act of 1970, or section 451 of the Energy Conservation and Production Act; and

[(D) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures.

[(c) There are authorized to be appropriated for supplemental State energy conservation plans which are approved under this section \$25,000,000 for fiscal year 1977, \$40,000,000 for fiscal year 1978, and \$50,000,000 for fiscal year 1979.]

* * * * *

PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

DEFINITIONS

SEC. 391. For the purposes of this part—

(1) The term "building" means any structure the construction of which was completed on or before [April 20, 1977] *May 1, 1989*, which includes a heating or cooling system, or both.

(2) The term "energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including, but not limited to—

(A) insulation of the building structure and systems within the building;

(B) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications.

(C) automatic energy control systems;

(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(F) solar water heating systems;

(G) furnace or utility plant and distribution system modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof, which substantially increases the energy efficiency of the heating system,

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system,

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights, and

(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(H) caulking and weatherstripping;

(I) replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system without increasing the overall illumination of a facility (unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary);

(J) energy recovery systems;

(K) cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by a school or hospital and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

(L) such other measures as the Secretary identifies by rule for purposes of this part; and

(M) such other measures as a grant applicant shows will save a substantial amount of energy and as are identified in an energy audit prescribed pursuant to section 365(e)(2).

(3) The term "hospital" means a public or nonprofit institution which is—

(A) a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

(B) duly authorized to provide hospital services under the laws of the State in which it is situated.

(4) The term "hospital facilities" means buildings housing a hospital and related facilities, including laboratories, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

(5) The term "public or nonprofit institution" means an institution owned and operated by—

(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

(B) an organization exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(6) The term "school" means a public or nonprofit institution which—

(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

(B)(i) provides, and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis;

(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(iii) is accredited by a nationally recognized accrediting agency or association; and

(iv) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (iii) of subparagraph (B); or

(D) is a local educational agency.

(7) The term "local educational agency" means a public board of education or other public authority or a nonprofit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

(8) The term "school facilities" means buildings housing classrooms, laboratories, dormitories, *administrative facilities*, athletic facilities, or related facilities operated in connection with a school.

(9) The term "State" means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(10) The term "State energy agency" means the State agency responsible for developing State energy conservation plans pursuant to section 362 of this Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit a State plan under section 394 of this part.

(11) The term "State school facilities agency" means an existing agency which is broadly representative of public institutions of higher education, nonprofit institutions of higher education, public elementary and secondary schools, nonprofit elementary and secondary schools, public vocational education institutions, nonprofit vocational education institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

(12) The term "State hospital facilities agency" means an existing agency which is broadly representative of the public hospitals and the nonprofit hospitals, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

(13) The term "energy audit" means a determination of the energy consumption characteristics of a building which—

(A) identifies the type, size, and rate of energy consumption of such building and the major energy using systems of such building;

(B) determines appropriate energy conservation maintenance and operating procedures; and

(C) indicates the need, if any, for the acquisition and installation of energy conservation measures.

(14) The term "preliminary energy audit" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption and major energy-using systems of such building.

(15) The term "energy conservation project" means—

(A) an undertaking to acquire and to install one or more energy conservation measures in school or hospital facilities and

(B) technical assistance in connection with any such undertaking and technical assistance as described in paragraph (17)(A).

(16) The term "energy conservation project costs" includes only costs incurred in the design, acquisition, construction, and installation of energy conservation measures and technical assistance costs.

(17) The term "technical assistance" means assistance, under rules promulgated by the Secretary, to States, schools, and hospitals—

(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification of maintenance and operating procedures in a building, or (ii) the acquisition and installation of one or more specified energy conservation measures in such building, or (iii) both, and

(B) the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building.

(18) The term "technical assistance costs" means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for providing technical assistance.

(19) The term "energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

(20) The term "Secretary" means the Secretary of Energy or his designee.

(21) The term "Governor" means the chief executive officer of a State or his designee.

GUIDELINES

SEC. 392. (a) The Secretary shall, by rule, not later than 60 days after the date of enactment of this part—

(1) prescribe guidelines for the conduct of preliminary energy audits, including a description of the type, number, and distribution of preliminary energy audits of school and hospital facilities that will provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State, and

(2) prescribe guidelines for the conduct of energy audits.

(b) The Secretary shall, by rule, not later than 90 days after the date of enactment of this part, prescribe guidelines for State plans for the implementation of energy conservation projects in schools and hospitals. The guidelines shall include—

(1) a description of the factors which the State energy agency may consider in determining which energy conservation projects will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals,

(2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to implement energy conservation projects, and

(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

(c) Guidelines prescribed under this section may be revised from time to time after notice and opportunity for comment.

(d) The Secretary shall, by rule prescribe criteria for determining schools and hospitals which are in a class of severe hardship. Such criteria shall take into account climate, fuel costs, fuel availability, ability to provide the non-Federal share of the costs, and such other factors that he deems appropriate.

PRELIMINARY ENERGY AUDITS AND ENERGY AUDITS

SEC. 393. (a) The Governor of any State may apply to the Secretary at such time as the Secretary may specify after promulgation of guidelines under section 392(a) for grants to conduct preliminary energy audits and energy audits of school facilities and hospital facilities in such State under this part.

(b) Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting preliminary energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 392(a)(1). If a State does not conduct preliminary energy audits within two years after the date of the enactment of this part, the Secretary may conduct such audits within such State.

(c) Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 392(a)(2).

(d) If a State without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary the funds allocated for purposes of this section shall be added to the funds available for energy conservation projects for such State and shall be in addition to amounts otherwise available for such purposes.

(e)(1) Except as provided in paragraph (2) amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or any energy audit.

(2) Upon the request of the Governor, the Secretary may make grants to a State for up to 100 percent of the costs of any preliminary energy audits and energy audits, subject to the requirements of section 398(a)(3).

STATE PLANS

SEC. 394. (a) The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 392, or such longer period as the Secretary may, for good cause, allow, a State plan under this section for such State. Such plan shall include—

(1) the results of preliminary energy audits conducted in accordance with the guidelines prescribed under section 392(a)(1), and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in the schools and hospitals in such State,

(2) a recommendation as to the types of energy conservation projects considered appropriate for schools and hospitals in such State, together with an estimate of the costs of carrying out such projects in each year for which funds are appropriated,

(3) a program for identifying persons qualified to carry out energy conservation projects,

(4) procedures to insure that funds will be allocated among eligible applicants for energy conservation projects within such State, including procedures—

(A) to insure that funds will be allocated on the basis of relative need taking into account such factors as cost, energy consumption and energy savings, and

(B) to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership;

(5) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate,

(6) procedures to assure that all assistance under this part in such State will be expended in compliance with the requirements of an approved State plan for such State, and in compliance with the requirements of this part,

(7) procedures to insure implementation of energy conserving maintenance and operating procedures in those facilities for which projects are proposed; and

(8) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant, State, local, or other funds.

(b) The Secretary shall review and approve or disapprove each State plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a), the Secretary shall approve the plan. If a State plan submitted within the 90-day period specified in subsection (a) has not been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Secretary.

(c)(1) If a State plan has not been approved under this section within 2 years and 90 days after the enactment of this part, or within 90 days after the completion of the preliminary audits under section 393(a), whichever is later, the Secretary may take such action as necessary to develop and implement such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, State school facilities agency, and State hospital facilities agency in order that the energy conservation program for schools and hospitals may be implemented in such State.

(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. The Secretary shall approve or disapprove such plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a) and is not inconsistent with any plan developed and implemented by the Secretary under paragraph (1), the Secretary shall approve the plan and withdraw any such plan developed and implemented by the Secretary.

APPLICATIONS FOR FINANCIAL ASSISTANCE

SEC. 395. (a) Applications of States, schools, and hospitals for financial assistance under this part for energy conservation projects shall be made not more than once for any fiscal year. Schools and hospitals applying for such financial assistance shall submit their applications to the State energy agency and the State energy agency shall make a single submittal to the Secretary, containing all applications which comply with the State plan.

(b) Applications for financial assistance under this part for energy conservation projects shall contain, or shall be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) shall include a listing and description of energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Secretary may, by rule, require.

(c)(1) The Secretary may not provide financial assistance to States, schools, or hospitals for energy conservation projects unless the application for a grant for such project is submitted through, or approved by the appropriate State hospital facilities agency or

State school facilities agency, respectively, and determined by the State energy agency to comply with the State plan.

(2) Applications of States, schools, and hospitals and State plans pursuant to this part shall be consistent with—

(A) related State programs for educational facilities in such State, and

(B) State health plans under section 1524(c)(2) and 1603 of the Public Health Service Act, and shall be coordinated through the review mechanisms required under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act.

(d) The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and with the requirements of the applicable State plan approved under section 394. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application. All or any portion of an application under this section may be disapproved to the extent that funds are not available under this part to carry out such application or portion.

(e) Whenever the Secretary, after reasonable notice and opportunity for hearing to any State, school, or hospital receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the State, school, or hospital that further assistance will not be made available to such State, school, or hospital under this part until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied no further assistance shall be made to such State, school, or hospital under this part.

GRANTS FOR PROJECT COSTS AND TECHNICAL ASSISTANCE

SEC. 396. (a) The Secretary may make grants to schools and hospitals for carrying out energy conservation projects the applications for which have been approved under section 395.

(b)(1) Except as provided in paragraph (2), amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of the costs of any energy conservation project. *The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects, including loan programs and performance contracting even if clear title to the equipment does not pass to the school or hospital until after the grant is completed.*

(2) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal

sources) may be used to pay not to exceed 90 percent of the costs of an energy conservation project if the Secretary determines that a project meets the hardship criteria of section 392(d). Grants made under this paragraph shall be from the funds provided under section 398(a)(2).

(c) Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 398.

[(d)] (d)(1) The Secretary may make grants to States for paying technical assistance costs. Schools in any State shall not be allocated less than 30 percent of the funds for energy conservation projects within such State and hospitals in any State shall not be allocated less than 30 percent of such funds.

(2) A State may utilize up to 100 percent of the funds provided under this part for technical assistance, except that—

(A) not more than 15 percent of the aggregate funds used by the State to provide technical assistance and for implementation of energy conservation measures pursuant to schools and hospitals programs may be expended for such technical assistance; and

(B) administration of schools and hospitals activities by such State shall be in accordance with applicable regulations.

(3)(A) If (i) a State has adopted a State plan in accordance with section 394, the administration of which is in accordance with applicable regulations, and (ii) the State annually certifies to the Secretary that the Federal funds expended for schools and hospitals activities by such State are less than 15 percent of the aggregate funds used by the State for the implementation of energy conservation measures pursuant to the schools and hospitals programs, then—

(B)(i) the limitations of paragraph (2) shall not apply to the State schools and hospitals programs under this part, (ii) the State may utilize up to 100 percent of the funds provided under this part for program and technical assistance and up to 50 percent of the funds provided under this part for marketing and other costs associated with leveraging of other non-Federal funds for technical assistance and energy conservation measures under this program, and (iii) the State may administer a continuous and consecutive application and award procedure for providing technical assistance under this part, in accordance with regulations established by the Secretary for this purpose.

[(e)] No grant made under this part to a school which is a local educational agency may be used for acquisition or installation of any energy conservation measure in any building of such agency which is used principally for administration, or technical assistance in connection with any such undertaking for such a building.]

[AUTHORIZATION OF APPROPRIATIONS]

[SEC. 397. (a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits pursuant to section 393, there is authorized to be appropriated not to exceed \$20,000,000 for the fiscal year ending September 30, 1978, and \$5,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

[(b) For the purpose of making energy conservation project grants pursuant to section 396, there is authorized to be appropriated not to exceed \$180,000,000 for the fiscal year ending September 30, 1978, \$295,000,000 for fiscal year ending September 30, 1979, and \$400,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended. Of the amounts appropriated under this subsection for each of the following fiscal years not more than the following percentage may be used for purposes of technical assistance:

Fiscal year ending:	Percentage
September 30, 1978.....	30
September 30, 1979.....	15
September 30, 1980.....	35

[(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the three consecutive fiscal year periods ending September 30, 1980, such funds to remain available until expended.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act \$40,000,000 for fiscal year 1991, \$50,000,000 for fiscal year 1992, and \$60,000,000 for fiscal year 1993.

ALLOCATION OF GRANTS

SEC. 398. (a)(1) Except as otherwise provided in subsection (b), the Secretary shall allocate 90 percent of the amounts made available under section 397(b) in any year for purposes of making energy conservation project grants pursuant to section 396 as follows:

(A) Eighty percent of amounts made available under section 397(b) shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

(B) Ten percent of amounts made available under section 397(b) shall be allocated among the States in such manner as the Secretary determines by rule after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and hospitals in the States, and such other factors as he deems appropriate.

(2) The Secretary shall allocate 10 percent of the amounts made available under section 397(b) in any year for purposes of making grants as provided under section 396(b)(2) in excess of the 50 percent limitation contained in section 396(b)(1).

(3) In the case of any State which received for any fiscal year an amount which exceeded 50 percent of the cost of any energy audit as provided in section 393(e)(2), the aggregate amount allocated to such State under this subsection for such fiscal year (determined after applying paragraphs (1) and (2) shall be reduced by an amount equal to such excess. The amount of such reduction shall

be reallocate to the States for such fiscal year as provided in this subsection except that for purposes of such reallocation, the State which received such excess shall not be eligible for any portion of such reallocation.

(b) The total amounts allocated to any State under subsection (a) in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a). Except for the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants to States and to schools and hospitals in each State which has an approved State plan under this part.

(c) Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe rules governing the allocation among the States of funds for grants for preliminary energy audits and energy audits. Such rules shall take into account the population and climate of such States and such other factors as he may deem appropriate.

(d) The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

(e) Funds allocated for projects in any States for a fiscal year under this section but not obligated in such fiscal year shall be available for reallocation under subsection (a) of this section in the subsequent fiscal year.

ADMINISTRATION; ANNUAL REPORTS

SEC. 399. (a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part.

(b) The Secretary shall include in his annual report a detailed description of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such description shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures implemented, with funds allocated, and an estimate of the energy savings achieved.

RECORDS

SEC. 400. (a) Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.

* * * * *

ENERGY CONSERVATION AND PRODUCTION ACT

Public Law 94-385, as Amended

To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Conservation and Production Act".

* * * * *

TITLE IV—ENERGY CONSERVATION AND RENEWABLE-
RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

SHORT TITLE

SEC. 401. This title may be cited as the "Energy Conservation in Existing Buildings Act of 1976".

* * * * *

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

FINDINGS AND PURPOSE

SEC. 411. (a) The Congress finds that—

(1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;

(2) low-income persons, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

(4) States, through community action agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such low-income persons, to supplement other Federal programs serving such persons, and to conserve energy.

(b) It is, therefore, the purpose of this part to develop and implement a supplementary weatherization assistance program to assist in achieving a prescribed level of insulation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

DEFINITIONS

SEC. 412. As used in this part:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "elderly" means any individual who is 60 years of age or older.

(4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term "handicapped person" means any individual (A) who is a handicapped individual as defined in section 7(7) of the Rehabilitation Act of 1973, (B) who is under a disability as defined in section 614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (C) who is receiving benefits under chapter 11 or 15 of title 38, United States Code.

(6) The terms "Indian", "Indian tribe", and "tribal organization" have the meanings prescribed for such terms by paragraphs (4), (5), and (6), respectively, of section 102 of the Older Americans Act of 1965.

(7) The term "low-income" means that income in relation to family size which (A) is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964, (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act or applicable State or local law, or (C) if a State elects, is the basis for eligibility for assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(8) The term "State" means each of the States and the District of Columbia.

(9) The term "weatherization materials" means—

(A) caulking and weatherstripping of doors and windows;

(B) furnace efficiency modifications, including, but not limited to—

(i) replacement burners, furnaces, or boilers or any combination thereof;

(ii) devices of minimizing energy loss through heating system, chimney, or venting devices; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, floor, and duct insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; [and]

(G)(i) *subject to clause (ii), cooling efficiency modifications including, but not limited to, replacement air conditioners, ventilation equipment, screening, window films, and shading devices; and*

(ii) *the Secretary shall establish criteria for use by States to determine cooling efficiency modifications that qualify for financial assistance as consistent with the purposes of this part; and*

[(G)](H) such other insulating or energy conserving devices or technologies as the Secretary may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.

WEATHERIZATION PROGRAM

SEC. 413. (a) The Administrator shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Secretary may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, occupied by low-income families.

(b)(1) The Secretary, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the ACTION Agency, and the heads of such other Federal departments and agencies as the Secretary deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this part, proposed regulations to carry out the provisions of this part. The Secretary shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after the date of such enactment. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Director of the National Bureau of Standards in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balanced combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation; [and]

[(B) designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units.]

(B) provide guidance to the States in the implementation of this part, including guidance designed to insure that a State establishes (i) procedures to assure that tenants paying for energy as a portion of their rent shall enjoy the protection that paragraph (5) provides, and (ii) a process for monitoring compliance with its obligations pursuant to this part, and

(C) designed to (i) secure the purposes of the Federal investment pursuant to this part, and (ii) address the issues of eviction and sale.

(3) The Secretary, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

(A) the cost of the weatherization material;

(B) variation in climate; and

(C) the value of energy saving by the application of the weatherization material.

Such standards shall be utilized by the Secretary in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 504(c) of the Housing Act of 1949, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Secretary shall take into consideration comments submitted regarding such proposed amendment and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.

(4) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.

(5) Where the dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall insure that—

(A) the benefits of weatherization assistance in connection with such leased units, including units where the tenants pay

for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed; and

(C) no undue or excessive enhancement will occur to the value of such dwelling units.

(6) The regulation promulgated pursuant to paragraph (2) shall authorize States to require financial participation from owners of multi-family buildings where weatherization services are being provided.

(c) If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Secretary which meets the requirements set forth in section 414, any unit of general purpose local government of sufficient size (as determined by the Secretary), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964, may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d)(1) Notwithstanding any other provision of this part, in any State in which the Secretary determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part) that the low-income members of an Indian tribe are not receiving benefits under this part that are equivalent to the assistance provided to other low-income persons in such State under this part, and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from sums that would otherwise be allocated to such State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Secretary on the basis of his determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part.

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary an application meeting the requirements set forth in section 414.

(e) Notwithstanding any other provision of law, the Secretary may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964, which further the purpose of this part.

FINANCIAL ASSISTANCE

SEC. 414. (a) The Secretary shall provide financial assistance, from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 413 and (2) to carry out this section. The Secretary shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings *and their potential for energy savings*.

[(D)](E) Such other factors as the Secretary may determine necessary in order to carry out the purposes and provisions of this part.

(b) The Secretary shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) establish priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units;

(3) establish policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to

the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1973, to work under the supervision of qualified supervisors and foremen, [and (B)] (B) for employing Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C) for complying with the limitations set forth in section 415; and

(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 415(b)(1), and other appropriate findings, community action agencies or other public or nonprofit entities to undertake the weatherization activities authorized by this title: *Provided*, Such selection shall be based on the agency's experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: *Provided further*, That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this title or under title II of the Economic Opportunity Act of 1964.

(c) *Effective fiscal year 1991, and annually thereafter, the Secretary shall update the population, climatic, residential energy use, and all other data used in allocating the funds of the Low-Income Weatherization Assistance Program among the States pursuant to section 414(a). Thereafter, the Secretary shall update these data with the most current data available no less than once every year.*

LIMITATIONS

SEC. 415. (a)(1) *The limitations of paragraph (2) shall not apply to a State weatherization program under this part if the State or area weatherization plan adopted by a State in accordance with subsection (b), in the judgment of the Secretary, after consultation with the State Energy Advisory Committee, includes—*

(A) *evaluation procedures which establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency;*

(B) *standards to be used by the State to determine whether to invest in individual energy efficiency measures based on a rate of return that will ensure that investment in each measure is an appropriate use of low-income weatherization assistance; and*

(C) *energy audit procedures and techniques which measure (i) the energy requirements of individual dwellings; (ii) the rate of return of each conservation investment; and (iii) the interaction between energy efficiency measures.*

[(a)] (2) *An average of at least forty percent of the funds provided in a State under this part for weatherization materials, labor*

and related matters described in subsection (c) shall be spent for weatherization materials. Not more than an amount equal to 10 percent of any grant made by the Secretary under this part may be used for administrative purposes in carrying out duties under this part, except that not more than one-half of such amount may be used by any State for such purposes, *except that a State may provide in the plan adopted pursuant to subsection (b) for subgrantees receiving grants in amounts less than \$350,000, whom the State has determined require additional financial assistance to effectively implement the administrative requirements established by the Secretary pursuant to this part, to use up to an additional five percent of the subgrant made under this part for implementation of such administrative requirements.*

(b) The Secretary shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1954 or to other appropriate and qualified public or nonprofit entities in such State or areas so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors; and

(B) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 418.

(c)(1) **[The expenditure]** *Except as provided in paragraphs (3) and (4), the expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters shall not exceed an average of \$1,600 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matter includes, but is not limited to—*

(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

(B) the cost of transporting labor, tools, and materials to a dwelling unit;

(C) the cost of having onsite supervisory personnel; and

(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective.

(2) Dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975,

through September 30, 1979, may receive further financial assistance for weatherization under this part.

(3) *Beginning with fiscal year 1990, the \$1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to the percentage increase in the Consumer Price Index for the previous fiscal year multiplied by the limitation amount for such previous fiscal year. The increase under the preceding sentence for any fiscal year shall not exceed 3 percent.*

[(d) Beginning in fiscal year 1986, not less than 5 percent and no more than 15 percent of the amount appropriated under this part for each fiscal year shall be allotted by the Secretary to a performance fund, which shall be available only to provide financial assistance under this part to those States which the Secretary determines to have demonstrated the best performance during the previous fiscal year in providing weatherization assistance. The Secretary shall make such determination on the basis of such information as may be available to the Secretary, to include, but not be limited to, the percentage of eligible dwelling units within the State which have been weatherized using low-income weatherization assistance program funds during the relevant reporting period. In assessing the quality of the weatherization assistance provided, the Secretary shall consider comparable energy savings data supplied by the States.]

(4)(A) *In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary may, upon application by a State, establish an average per dwelling unit limitation for dwelling units in such State—*

(i) which conform to program requirements;

(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part; and

(iii) for which determination is made pursuant to regulations prescribed by the Secretary that such furnace efficiency modifications are a cost-effective use of funds.

(B) *The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—*

(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

(ii) an amount determined by the Secretary to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State.

(d) *Beginning in fiscal year 1992, the Secretary, to the extent provided for in the Appropriations Act, may allocate such funds as are provided in the Low-Income Weatherization Incentive Fund to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination the Secretary shall:*

(1) consult with the State Energy Advisory Board pursuant to section 365(g)(2)(E); and

(2) give priority to those States which have employed Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources.

(e)(1) Beginning in fiscal year 1991, the Secretary may allocate among the States an equal amount, not to exceed \$100,000 per state, of the funds appropriated for the purposes of this part. Such funds shall be available to the States to provide supplementary financial assistance to those subgrantees which the States determine have achieved the best performance during the previous fiscal year in advancing the purposes of this part, except that none of such funds may be used for State administration of this program. In making such determination, States shall give priority to those subgrantees who by rule, law, or administrative and executive action have provided non-Federal resources, including private resources, to supplement Federal financial assistance under this part.

(2) The regulations promulgated by the Secretary pursuant to section 413(b) shall include guidelines to be used by each State in making the determination under paragraph (1). When promulgating such guidelines the Secretary shall consult with the State Energy Advisory Board pursuant to section 365(g)(2)(E).

MONITORING, TECHNICAL ASSISTANCE, AND EVALUATION

SEC. 416. The Secretary, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 417(a), through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Secretary shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Secretary may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed 10 percent of the sums appropriated for such year under this part.

ADMINISTRATIVE PROVISIONS

SEC. 417. (a) The Secretary, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Secretary and the Director to carry out their functions under this part.

(b) Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Administrator may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) The Secretary, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

APPROVAL OF APPLICATIONS AND ADMINISTRATION OF STATE PROGRAMS

SEC. 418. (a) The Secretary shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 413(c), as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Administrator may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Secretary, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice notice this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

JUDICIAL REVIEW

SEC. 419. (a) If any applicant is dissatisfied with the Secretary's final action with respect to the application submitted by it under section 414 or with a final action under section 418, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Administrator, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action. The Secretary shall certify to the court the record of any such further proceed-

ings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

NONDISCRIMINATION

SEC. 420. (a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.

(b) Whenever the Secretary determines that a recipient of financial assistance under this part has failed to comply with subsection (a) or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Secretary shall—

- (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;
- (2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 and any other applicable Federal nondiscrimination law; or
- (3) take such other action as may be authorized by law.

ANNUAL REPORT

SEC. 421. The Secretary and (with respect to the operation and effectiveness of activities carried out through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter through 1979, a report to the Congress and the President describing the weatherization assistance program carried out under this part or any other provision of law, including the results of the periodic evaluations and monitoring activities required by section 416.

Such report shall include information and data furnished by each state on the average costs incurred in weatherization of individual dwelling units.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 422. There is authorized to be appropriated for purposes of carrying out the weatherization program under this part, the sum of \$55,000,000 for the fiscal year ending on September 30, 1977, the sum of \$130,000,000 for the fiscal year ending on September 30, 1978, the sum of \$200,000,000 for the fiscal year ending on September 30, 1979, the sum of \$200,000,000 for the fiscal year ending on September 30, 1980, and the sum of \$200,000,000 for the fiscal year ending on September 30, 1981, such sums to remain available until expended.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 422. (a) There are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for purposes of carrying out the weatherization program under this part other than sections 415(d) and (e), \$200,000,000 for fiscal year 1991 and such sums as may be necessary for 1992 and 1993.

NATIONAL ENERGY EXTENSION SERVICE ACT

Public Law 95-39

* * * * *

[TITLE V—ENERGY EXTENSION SERVICE

[SHORT TITLE

[SEC. 501. This title may be cited as the “National Energy Extension Service Act”.

[FINDINGS AND PURPOSES

[SEC. 502. (a) The Congress hereby declares—

[(1) that the general welfare and the common defense and security require a greater public knowledge of energy conservation opportunities;

[(2) that scientific identification and practical demonstration of specifically designed energy conservation opportunities, the dissemination of information relating thereto, and the prompt delivery and acceptance of specific energy conservation opportunities require a national effort;

[(3) that the national effort required to develop, demonstrate, and encourage acceptance and adoption of energy conservation opportunities should be coordinated at the Federal level by the Energy Research and Development Administration;

[(4) that a special effort must be made to develop and demonstrate practical alternative energy technologies such as solar heating and cooling;

[(5) that successful implementation of energy conservation and new energy technologies will require both public awareness and individual capability to use the conservation opportunities and new technology;

[(6) that this required awareness and capability can only be achieved on a national basis by an active outreach effort;

[(7) that existing energy outreach programs are underfunded;

[(8) that any Federal outreach program should be organized with the States as full participants, and each State should plan and coordinate the outreach activities within the State, optimizing the use of existing outreach capabilities;

[(9) that Federal assistance should be provided for energy outreach activity, including coordinated energy outreach activities and technical support in each State for such efforts;

[(10) that the Energy Research and Development Administration should provide overall national direction and review of federally assisted State energy outreach programs.

[(b) The Congress declares that the purposes of this title are—

[(1) to establish a positive energy outreach program directed toward small business and individual energy consumers and the organizations that influence energy consumption;

[(2) to stimulate, provide for and supplement programs for the conduct of evaluation, planning and other technical support of energy conservation efforts, including energy outreach activities of States.

[ESTABLISHMENT OF EXTENSION SERVICE

[Sec. 503. (a) There is established in the Energy Research and Development Administration an office to be designated as the Energy Extension Service (hereinafter in this Act referred to as the "Service"). The Service shall be headed by a Director who shall be appointed by and directly responsible to the Administrator of the Energy Research and Development Administration (hereinafter referred to as the "Administrator"). The Director shall be a person who by reason of training, experience, and attainments is exceptionally qualified to implement the programs of the Service. There shall be in the Service a Deputy Director who shall be appointed by the Administrator, who shall have such functions, powers, and duties as may be prescribed from time to time by the Director, and who shall act for, and exercise the powers of, the Director during the absence or disability of, or in the event of a vacancy in the office of, the Director.

[(b) The Director shall receive basic pay at the rate provided for level IV of the Executive Schedule in section 5315 of title 5, United States Code.

[(c) The Director shall have overall responsibility for the national direction of the comprehensive program developed under section 504 and of all other activities conducted under this title and shall annually review the programs of the various States under sections 505 and 506 to insure that they are effectively promoting the realization of the objection of this title.

[DESCRIPTION OF EXTENSION SERVICE

[Sec. 504. (a) The Service shall develop and implement a comprehensive program for the identification, development, and practical demonstration of energy conserving opportunities, techniques, materials, and equipment, including opportunities, techniques, or methods responsive to local needs or resources, and alternative energy technologies such as solar heating and cooling, for—

[(1) agricultural, commercial, and small business operations, and

[(2) new and existing residential, commercial, and agricultural buildings or structures.

[Such program shall provide for technical assistance, instruction, information, dissemination, and practical demonstrations in energy conservation opportunities, and shall provide an active interface with end use energy consumers at the local level for the purpose of

offering active outreach assistance and affording a communication channel for end user technology requirements. Such outreach assistance shall be provided by means of such appropriate local offices, including metropolitan city offices, county agents, and technical staff assistants, and may be required to provide energy extension services.

[(b) The program authorized under subsection (a) of this section shall permit each State to establish a technical support institute at one or more colleges or universities designated by the Governor of that State. Each such institute shall—

[(1) have as its purpose to assist in implementation of the State energy extension service; and

[(2) provide such analyses and technical support as is necessary for effective State energy extension service activities.

[(c) The comprehensive program developed under subsection (a) shall be implemented and carried out within each State pursuant to sections 505 and 506.

[(d) The Director shall take such steps as may be necessary to insure that the comprehensive program is implemented in a manner which minimizes conflict with existing services in the private sector of the economy that are similar to those provided under such program.

[INITIAL IMPLEMENTATION OF EXTENSION SERVICE

[SEC. 505. (a) The Director shall within forty-five days after the effective date of this title invite the Governor of each State through competitive procurement to submit a plan for the conduct of energy extension service activities as described in section 504 of this title throughout such State including provisions for appropriate technical support within such State of such activities, to disseminate information and provide advice and assistance to individuals, groups, and units of State and local government by means of—

[(1) specific studies and recommendations applicable to individual residences, businesses, and agricultural or commercial establishments;

[(2) demonstration projects;

[(3) distribution of studies and instructional materials;

[(4) seminars and other training sessions for State and local government officials and the public; and

[(5) other public outreach programs.

[(b) Each State shall be accorded not more than ninety days to submit a plan to the Director under subsection (a) of this section. The Director shall promptly review such proposals and shall, with the approval of the Administrator, and subject to the limitations of section 512 (c)(1) and (2), provide funds adequate for the support of the proposed energy outreach plan of a State if the Director finds that, such plan—

[(1) meets the objectives of this title;

[(2) was prepared with opportunity for input from State, county, and local officials, State universities, colleges and community colleges, cooperative extension services, community

service action agencies, and other public or private organizations involved in active energy outreach programs;

[(3) consistent with the objectives and requirements of this title, makes optimum use of existing outreach or delivery mechanisms or programs, and includes to the optimum extent any existing State, local, university, college, or other organizations' programs for energy information, education, or technology transfer which have objectives similar to those of this title and activities similar or related to those specified in section 504 and subsection (a) of this section;

[(4) provides that the State will maintain, or require other participating entities within the State to maintain, and make available upon request to the Director, such records with respect to the use and expenditure of any Federal funds paid to the State, or to entities within the State, under this title as the Director may require;

[(5) provides for the establishment of effective procedures for responding to external inputs and inquiries;

[(6) requires that, to the extent possible, within personnel and funding limitations, on-site energy evaluations will be made available to all consumers and small business concerns, and to other business concerns within such limitations (as to size or otherwise) as the Director may specify;

[(7) provides that the State will furnish and widely disseminate information on the types of assistance available under this title, and under other Federal and State laws, with respect to the planning, financing, installation, and effecting monitoring of energy-related facilities and activities;

[(8) provides that the allocation within the State of the funds made available to it under this title will be based on, or give due consideration to, such factors (specifically including potential energy savings and number of persons affected) as the Director determines will best carry out the purpose of this title;

[(9) requires the establishment and implementation is policies and procedures designed to assure that assistance provided under this title does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but rather supplements such funds and increases the expenditure of such State or local funds to the maximum extent possible: *Provided*, That there shall be no requirement for matching State or local funds in the guidelines, unless requirement is included in an annual authorization;

[(10) requires effective coordination of the programs under such State plans with other Federal programs which provide funds for university extension programs, in order to avoid duplication;

[(11) requires the establishment and implementation of effective procedures specifically designed for the dissemination of information to small business concerns;

[(12) limits to a maximum 20 per centum the portion of the funds made available under this title which may be used for the purchase of equipment, facilities, and library and related materials;

[(13) prohibits the use of any such funds for the purchase of land or interests therein or the repair of buildings or structures; and

[(14) satisfies such other criteria as the Director may establish to carry out the purpose of this title.

[IMPLEMENTATION OF NATIONAL EXTENSION SERVICE

[SEC. 506. (a) Notwithstanding the provisions of section 505, the Director, on behalf of the Administrator, is authorized and directed to invite in each State of the United States not then participating in the program at the earliest practicable date, but not later than October 1, 1978, to submit a plan for the conduct of energy extension service activities, including provisions for appropriate technical support in such State, to disseminate information and provide advice and assistance to individuals, groups, and units of State and local government by means of—

[(1) specific studies and recommendations applicable to individual residences, businesses, and agricultural or commercial establishments;

[(2) demonstration projects;

[(3) distribution of studies and instructional materials;

[(4) seminars and other training sessions for State and local government officials and the public; and

[(5) other public outreach programs.

[(b) Pursuant to authority described in subsection (a) of this section, the Director, with the approval of the Administrator, shall issue guidelines for the preparation and submission of State plans under subsection (c). Such guidelines shall be designated to assure that the plans so submitted will be consistent with this title and will effectively contribute to the achievement of its objectives, and shall allow maximum flexibility and the exercise of maximum discretion by the States. In the preparation of such guidelines, the Administrator shall provide a reasonable opportunity for inputs by representatives of the several States and for a reasonable period for public review and comment. In any event, such guidelines—

[(1) shall require the establishment and implementation of policies and procedures designed to assure that assistance provided under this title does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but rather supplements such funds and increases the expenditure of such State or local funds to the maximum extent possible;

[(2) shall require effective coordination of the programs under such State plans with other Federal programs which provide funds for university extension programs, in order to avoid duplication;

[(3) shall require the establishment and implementation of effective procedures specifically designed for the dissemination of information to small business concerns;

[(4) shall limit to a maximum of 20 per centum the portion of the funds made available under this title which may be used for the purchase of equipment, facilities, and library and related materials; and

[(5) shall prohibit the use of any such funds for the purchase of land or interests therein or the repair of buildings or structures.

[(c) On the effective date of the guidelines described in subsection (b) of this section, the Director shall invite the Governor of each State not then participating in the program to submit a plan for the conduct of energy extension service activities throughout such State.

[(d) Each State plan submitted under subsection (c) shall be approved by the Director if the Director finds that such plan—

[(1) meets the objectives of this title;

[(2) was prepared with opportunity for input from State, county, and local officials, State universities and community colleges, cooperative extensive services, community service action agencies, and other public or private organizations involved in active energy outreach programs;

[(3) consistent with the objectives and requirements of this title, makes optimum use of existing active outreach or delivery mechanisms or programs, and includes to the optimum extent any existing State, local, university, or other organizations' programs for energy information, education, or technology transfer which have objectives similar to those of this title and activities similar or related to those specified in section 504 and subsection (a) of this section;

[(4) provides that the State will maintain, or require other participating entities within the State to maintain, and make available upon request to the Director, such records with respect to the use and expenditure of any Federal funds paid to the State, or to entities within the State, under this title as the Director may require;

[(5) provides for the establishment of effective procedures for responding to external inputs and inquiries;

[(6) requires that, to the extent possible, within personnel and funding limitations, on-site energy evaluations will be made available to all consumers and small business concerns, and to other business concerns within such limitations (as to size or otherwise) as the Director may specify;

[(7) provides that the State will furnish and widely disseminate information on the types of assistance available under this title, and under other Federal and State laws, with respect to the planning, financing, installation, and effective monitoring of energy-related facilities and activities;

[(8) provides that the allocation within the State of the funds made available to it under this title will be based on, or give due consideration to, such factors (specifically including potential energy savings and number of persons affected) as the Director determines will best carry out the purpose of this title; and

[(9) satisfies such other criteria as the Director may establish to carry out the purpose of this title.

[(e) If the Director finds that a State plan submitted under subsection (c) does not satisfy the requirements of subsection (d), he shall provide a reasonable opportunity for the State to present ar-

guments in support of such plan and to revise the plan within a reasonable period of time to satisfy such requirements.

[(f)(1) If a State does not submit a plan under subsection (a) or its plan as so submitted (with any revisions made under subsection (e)) is not acceptable, the Director (after giving notice and an opportunity for comment to the Governor of such State) shall develop consistent with other subsections of this section an energy extension service plan for the State involved, which conforms to the requirements of subsection (d). In conducting energy extension service activities under any plan developed under this subsection, the Director is authorized to enter into agreements for the utilization of existing Agriculture Extension Service offices and personnel, or such other offices and personnel as may be appropriate, and to provide funds for such operations; and in carrying out the functions of such offices the Director shall make maximum use of any existing delivery mechanisms for the State or local region concerned which are appropriate for purposes of this section, while coordinating his activities in connection with the performance of such functions with all such mechanisms in the State or region which are related to, but not directly involved, in the program under this title.

[(2) Each State shall have a period of one hundred and eighty days after the issuance of the indication referred to in subsection (b) (or a longer period if the Director finds, at the request of the Governor of such State, that an extension is justified) within which to submit its plan under subsection (c) and if necessary to revise such plan under subsection (e) before the Director may undertake the development of a plan for such State under paragraph (1) of this subsection.

[(3) Any such plan developed by the Director shall be transmitted to the Governor of such State and shall not be implemented for ninety days after the date of transmittal: *Provided*, That notwithstanding the provisions of paragraphs (1) and (2) of this subsection, no such plan shall be implemented if the Governor within the ninety-day period notifies the Administration in writing of his objection to the implementation of said plan.

[(g) The Director shall annually review the implementation of State plans approved under subsection (d) to insure continued conformance with the requirements of this title. If the Director determines that the implementation of any approved State plan does not satisfy any of such requirements, he shall notify the Governor of the State and any other designated officials of the deficiency, with specific details, and shall provide a reasonable time and opportunity for remedial action. If, after such reasonable time and opportunity, satisfying remedial action has not been taken to place the implementation in conformance with such requirements, the Director shall so inform the Administrator, who shall give the Governor notice of intention to terminate Federal assistance, after the opportunity for the Governor's comment, if the implementation continues to not satisfy all such requirements. Federal assistance shall be terminated thereafter if satisfactory action is not taken. In the event Federal assistance is terminated under this subsection, the Director shall proceed in accordance with the procedures in subsection (f) to develop an energy extension service for the State. In so doing, the Director shall provide for continuation of all activi-

ties under the State plan which were in conformance with the requirements of this title and shall effect only such changes in the activities under such plan as are necessary to satisfy such requirements. The Director shall give the Governor notice of any such changes and shall provide a reasonable opportunity for the Governor to comment prior to proceeding with the changes.

[(h) In any case where a State has submitted a State energy conservation plan under part C of title III of the Energy Policy and Conservation Act, as amended, the State's plan submitted under subsection (c) of this section shall specifically indicate how its proposed extension service program will complement or supplement any programs of public education under section 362(d)(4) of such Act which are included under such energy conservation plan. In any event, each State plan submitted under subsection (c) of this section shall indicate how its proposed extension service program will complement or supplement any other energy conservation programs being carried out within the State with assistance from Federal funds or under other Federal laws.

[(i) The Director shall provide financial assistance to each State having a plan approved under subsection (d), from funds allocated to such State under section 512(c), and shall provide information and technical assistance to such State, for the development, implementation, or modification of the State's plan submitted under subsection (c) of this section.

[(j) Nothing in this title, or in the comprehensive program developed under section 504 or any State plan approved under this section, shall have the effect of modifying or altering the relationships existing between educational institutions and the States in which they are located in connection with activities provided for under this title.

【ADMINISTRATIVE PROVISIONS

【SEC. 507. (a) The Director shall promulgate such regulations and directives as may be necessary to carry out the functions and projects of the Service.

[(b) The Director shall consult and cooperate with the Secretary of Housing and Urban Development, the Administrator of the Federal Energy Administration, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Secretary of Health, Education, and Welfare, the Community Services Administration (and its Institute for Appropriate Technology), the Secretary of Commerce (and the Regional Centers of the Economic Development Administration in the Department of Commerce), the Administrator of the Small Business Administration, and the heads of other Federal agencies administering energy-related programs, with a view toward achieving maximum coordination with such other programs, and for the purpose of insuring to the maximum extent possible that all energy conservation and new energy technology information disseminated by or through Federal programs in a given area are consistent and are fully coordinated in order to minimize duplication of effort and to maximize public confidence in the credibility of Federal or federally assisted programs. It shall be the responsibility of the Director to promote the coordination of

programs under this title with other public or private programs or projects of a similar nature.

[(c) Federal agencies described in subsection (b) shall cooperate with the Director in disseminating information with respect to the availability of assistance under this title, and in promoting the identification and interests of individuals, groups, or business and commercial establishments eligible for assistance through programs funded under this title.

[(d) At such time as the Energy Resources Council is terminated, pursuant to section 108 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5818), there shall be established an Inter-agency Advisory Group, consisting of the Director (as Chairman) and the heads of the Federal agencies described in subsection (b) or their delegates, to assist the Director in carrying out his responsibilities under this section and to provide a mechanism for use by the Director and the heads of such agencies in the performance of their functions under subsections (b) and (c).

[COMPREHENSIVE PLAN AND PROGRAM

[SEC. 508. (a) The Administrator is authorized and directed to prepare a comprehensive program and plan for Federal energy education, extension, and information activities authorized by this title and any other law. In the preparation of the program and plan, the Administrator shall utilize and consult with the head of each agency referred to in this title and any other Federal agency with an energy education, extension, or information program. Preparation of such program and plan shall not delay in any way the procedures specified in sections 505 and 506 or the implementation otherwise of this title. Rather, the program and plan should reflect the activities mandated by this title and serve as a mechanism for Federal Government-wide coordination and management of those activities with the activities of other Federal agencies under other law.

[(b) The comprehensive program and plan shall include, but not be limited to, the following elements:

[(1) specific delineation of responsibility of each participating Federal agency in the conduct of this title;

[(2) mechanisms established to coordinate the activities under this title, pursuant to section 507 (b), (c), and (d);

[(3) a detailed summary of all related Federal programs under other law, including program descriptions, types of delivery mechanisms, budget, and objectives;

[(4) procedures for defining and measuring the effectiveness, in terms of increased energy efficiency, fuel savings, adoption of new energy technologies, and other appropriate criteria, of the activities under this title and related activities under other law;

[(5) an assessment of other existing Federal assistance and incentives, other than public education, extension, and outreach programs, and their relation to such programs, in achieving the objectives of this title;

[(6) procedures pursuant to section 504(d) to minimize conflict with existing services in the private sector of the economy which are similar to those under this title and other law; and

[(7) a comprehensive and integrated plan for the resulting Federal program, taking into account paragraphs (1) through (6).

[(c) The Administrator shall transmit the comprehensive program and plan to the President and to each House of Congress within one hundred and eighty days after the date of enactment of this Act. Thereafter, the Administrator shall revise the program and plan on an annual basis and submit the revisions as part of the annual fiscal year budget submission and the report required by section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

[ADVISORY BOARD

[SEC. 509. (a) There is hereby established a National Energy Extension Service Advisory Board (hereinafter in this section referred to as the "Board"), which shall consist of not less than fifteen nor more than twenty members appointed by the Administrator from among persons representative of State, county, and local governments, State universities, community colleges, community service action agencies, consumers, small business, and agriculture. The Administrator shall designate one of the members of the Board to serve as its chairman, and shall provide the Board with such services and facilities as may be necessary for the performance of its functions. The Administrator shall reimburse members of the Board for the full amount of any expenses (including travel expenses) necessarily incurred by them in the performance of their duties as such.

[(b) The Board shall carry on a continuing review of the operation of the comprehensive program developed under section 504 and the various State plans approved under sections 505 and 506, for the purpose of evaluating their effectiveness in achieving the objectives of this title and determining how their operation might be improved in furtherance of such objectives.

[(c) The Board shall report at least annually to the Administrator, the Director, and the Congress on the status of the program under this title, including any recommendations it may have for administrative or legislative changes to improve its operation.

[CONFORMING AMENDMENTS

[SEC. 510. (a) Section 103 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801), is amended by redesignating paragraphs (7) through (11) as paragraphs (8) through (12) respectively, and inserting immediately after paragraph (6) the following new paragraph:

["(7) establishing, in accordance with the National Energy Extension Service Act, an Energy Extension Service to provide technical assistance, instruction, and practical demonstrations on energy conservation measures and alternative energy systems to individuals, businesses, and State and local government officials;"]

[(b) Section 108(b) of such Act (42 U.S.C. 5818(b)) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph:

["(4) insure that Federal agencies fully discharge their responsibilities under sections 507 and 508 of the National Energy Extension Service Act for coordination and planning of their related activities under such Act and any other law, including but not limited to the Energy Policy and Conservation Act."]

[(c) Section 108 of such Act is further amended by adding at the end thereof the following new subsection:

["(e) There is hereby established an Energy Conservation Subcommittee within the Council, which shall be chaired by the Administrator of the Energy Research and Development Administration, to discharge the responsibilities specified in subsection (b)(4) of this section and other related functions associated with the coordination and management of Federal efforts in the areas of energy conservation research, development and demonstration.

[RECORDS

[SEC. 511. Each State or other entity within a State receiving Federal funds under this title shall make and retain such records as the Administrator shall require, including records which fully disclose the amount and disposition of such funds; the total cost of the facilities for which such funds were given or used; the source and amount of any funds not supplied by the Administrator; and any data and information which the Administrator determines are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. Such recordkeeping shall be in accordance with Federal Management Circular 74-7 (34 CFR part 256) and any modification thereto. The Administrator, or any of his duly authorized representatives, shall have access until the expiration of three years after the completion of the facilities or activities involved to any books, documents, papers, and records or receipts which the Administrator deems to be related or pertinent, directly or indirectly, to any such Federal funds.

[APPROPRIATION AUTHORIZATIONS

[SEC. 512. (a) There are authorized to be appropriated to the Director to carry out this title such sums as may be included in the annual authorization, for the fiscal year 1977 (as provided in section 101(7)(G) of title I of this Act), for the nonnuclear programs of the Energy Research and Development Administration.

[(b) To the extent provided in the Act making the appropriation involved, any portion of the amount appropriated pursuant to subsection (a) for any fiscal year may be transferred by the Director, with the approval of the Administrator, to the head of any other Federal agency for payment to or expenditure within one or more States under sections 505 and 506 upon a determination by the Director that the existence of regular payment channels or adminis-

trative relationships between that agency and the State involved (or entities within such State) makes such transfer and such payment or expenditure administratively more efficient or effective or otherwise promotes the achievement of the objectives of this title; but no transfer of funds under this subsection shall result in any loss by the Director of any authority over program direction or control which is vested in him by this title.

[(c)(1) The total amount appropriated pursuant to subsection (a) for the initial implementation of the energy extension service (other than the portion thereof needed for administrative expenses and special State projects) shall be allocated among the participating States according to the amounts needed to implement their proposed initial programs.

[(2) The total amount appropriated pursuant to subsection (a) for any fiscal year (other than the portion thereof needed for administrative expenses and special State projects) shall be allocated among the States in accordance with the following formula:

[(i) one-half shall be divided equally among all the States; and

[(ii) one-half shall be divided among the States in proportion to their respective populations, with each State being entitled to a sum that bears the same ratio to one-half of such total amount as such State's population (determined on the basis of the most recent decennial census) bears to the total population of all the States (as so determined).

[(3) During the fiscal year in which this title becomes effective, the Director shall provide funds in accordance with paragraph (1) of this subsection for the implementation of the energy extension service activities in the maximum number of States determined by the Director to be feasible with the total amount appropriated pursuant to subsection (a): *Provided*, That in no case shall such number be less than ten States.

[DEFINITIONS

[SEC. 513. As used in this title, the term—

(1) "energy conservation" means energy conservation, efficient energy use and the utilization of renewable energy resources; and

[(2) "State" means a State, the District of Columbia, Puerto Rico, the Trust Territory of the Pacific Islands, or any territory or possession of the United States.]